

所属部署・作成者

ファイル No.

活用期間

(作成日)

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DEFENDANT'S
EXHIBIT

HOW

DVD CCA 201760
HIGHLY CONFIDENTIAL
ATTORNEY EYES ONLY

AMENDED AND RESTATED CSS INTERIM LICENSE AGREEMENT

This **AMENDED AND RESTATED CSS INTERIM LICENSE AGREEMENT**, including the related **CSS PROCEDURAL AND AMENDED AND RESTATED TECHNICAL SPECIFICATIONS**, (collectively, this "**Agreement**") is made and entered into as of December 1, 1997 (the "**Effective Date**") by and between: (i) **MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.**, a Japanese corporation having offices located at 1006 Kadoma, Osaka 571 Japan ("**MEI**"); and (ii) **WIN TECHNOLOGIES CO., LTD.**, a Taiwanese corporation having offices located at 4F-6, No. 81, Sec. 1 Hsin Tai Wu Road, Hsi-CHI, Taipei, Taiwan, R.O.C. ("**Licensee**"). This Agreement shall be effective as of the Effective Date provided that it is executed by the parties hereto.

RECITALS

- A. MEI and Toshiba (as defined below) have developed a Contents Scramble System (as defined below) to provide reasonable security to the contents of DVD Discs and thereby provide protection for copyrighted content against unauthorized consumer copying, and have filed patent applications with respect to the Content Scramble System.
- B. MEI and Toshiba intend to license the Contents Scramble System to a new independent entity which will administer such system.
- C. The independent entity is expected to be established by MEI, Toshiba and others in the DVD industry within several months.
- D. During the period from the Effective Date until the establishment and operation of the entity, Toshiba has granted to MEI a license to Toshiba's rights to the Contents Scramble System, and MEI will serve as the licensing agent for the Contents Scramble System to grant licenses to third parties which desire to implement such system in DVD products.
- E. This Agreement: (i) is intended to be an interim agreement that is effective until the entity is established and makes available its standard license agreement; and (ii) sets forth the terms and conditions under which MEI will grant Licensee the right to implement the security system on its DVD products.

AGREEMENT

- 1. **DEFINITIONS.** In addition to the other capitalized terms used in this Agreement and in addition to the terms defined in the CSS Procedural Specifications (which terms shall have the meanings set forth in the Procedural Specifications), the following terms shall have the following meanings:

- 1.1 “Absolutely Necessary Claim” shall mean any claim(s) of patent(s) or patent application(s) which are infringed by the manufacture, import, use or sale of CSS Compliant Products because: (i) the CSS Specifications pertaining to CSS are read on by such claim(s); or (ii) products that, solely because of the requirement to implement the CSS Specifications pertaining to CSS, cannot be manufactured, used, distributed, offered to be sold, sold, imported, or otherwise transferred without infringing such claim(s).
- 1.2 “Associate Licensee” shall mean any third party that enters into an agreement, containing substantially the same terms as those set out in Attachment D (“Associate License”).
- 1.3 “Associate Licensee Reseller” shall mean an Associate Licensee entering an Associate License for the purpose of being authorized to purchase and resell Schedule 1 and Schedule 2 Products, subject to the redistribution requirements of the Associate License.
- 1.4 “Confidential Information” shall mean Proprietary Information that is either marked "confidential" or "proprietary" when disclosed in written form or indicated as "confidential" or "proprietary" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure.
- 1.5 “CSS” or “Contents Scramble System” shall mean the Contents Scramble System developed by MEI and Toshiba and designed to provide reasonable protection for the contents of DVD Discs, as more fully described in the CSS Specifications, excluding any unrelated or independent technology incidentally referenced by or used with the CSS Specifications such as MPEG technology and DVD technology.
- 1.6 “CSS Compliant Products” shall mean DVD Products which are compliant with the CSS Specifications.
- 1.7 “CSS Licensee” shall mean any third party that enters into an agreement with MEI where such agreement contains substantially the same terms as those set forth in this Agreement and is valid and in effect. CSS Licensees shall include MEI and Toshiba in each of their respective capacities in manufacturing, using, distributing, offering for sale, selling, importing or otherwise transferring DVD Products.
- 1.8 “CSS Specifications” shall mean the documentation relating to CSS entitled “CSS Specifications” (including the Procedural Specifications and the Technical Specifications) that MEI makes available to Licensee pursuant to the Membership Categories selected by Licensee, as such documentation may be revised from time to time consistent with Sections 4.2 and 10.7 hereof.
- 1.9 “Disc IP” shall mean any copyright, trade secret, or other intellectual property inherent in the CSS Specifications pertaining to CSS or any patent claim(s)

(including but not limited to any Absolutely Necessary Claims or Relatively Necessary Claims) relating to implementation of CSS in any DVD Disc.

- 1.10 “DVD Products” shall mean the following products if they incorporate any portion of CSS: DVD Players, DVD-ROM Drives, Descramblers, Authenticators, DVD Decoders (implemented in hardware as DVD Decoder Cards and/or in software as DVD Decoder Software), DVD Disc Formatters, DVD Discs and Integrated Products.
- 1.11 “Entity” shall mean the organization to administer CSS to be established by MEI, Toshiba, and other DVD industry members.
- 1.12 “Highly Confidential Information” shall mean Proprietary Information that is either marked "Highly Confidential Information" when disclosed in written form or indicated as "Highly Confidential Information" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure. Such information shall be limited to information constituting or disclosing: (i) the algorithms used for scrambling, descrambling, authentication and key recovery; (ii) master, disc, title or authentication keys; and (iii) information for testing product compliance with CSS where such information makes use of or reveals information described in (i) or (ii).
- 1.13 “Integrated Product” shall mean a combination of any one or more of a DVD Player, DVD-ROM Drive, Descrambler, Authenticator, or DVD Decoder with any other product, device or component into a single integrated unit that permits, or that is designed for further integration into a product that permits, the transmission of unscrambled content in digital or analog format to any internal or external output or connection, provided that use of the term “Integrated Product” does not affect the obligations or provisions pertaining to any separately defined DVD Product. Integrated Products may include by way of example and not of limitation: (i) integration of DVD-ROM Drives or DVD Decoder Cards with or into computer systems; and (ii) integration of DVD-ROM Drives or DVD Players with or into television receivers and videocassette recorders. The term “Integrated Product” shall include a combination of products linked together through a form of common operation that controls the transfer of CSS Data among the products.
- 1.14 “Licensed Rights” shall mean all Absolutely Necessary Claims, copyrights, trade secret rights, and other proprietary rights in any jurisdiction, and all applications and registrations therefor in and to CSS (including the Proprietary Information), that MEI (during the term of this Agreement) owns or has the right to grant licenses of the scope granted herein without the agreement of, or requirement for payment (or provision of other consideration) to any person or entity.
- 1.15 “Proprietary Information” shall mean any and all information relating to CSS made available to Licensee directly by MEI, by any other CSS Licensee or pursuant to Section 5.3 prior hereto or during the term of this Agreement

including, without limitation, CSS Specifications, software, hardware, firmware, documentation, designs, flow charts, technical data, outlines, blueprints, notes, drawings, prototypes, templates, systems, manuals, know-how, processes and methods of operation.

1.16 “Protected” shall mean a configuration in which a data stream or signal is not output except (i) via encrypted, scrambled, or otherwise secure link or method authorized hereunder either through a device’s or component’s authorized output or to the next component or device which in turn has an authorized output; or (ii) directly as uncompressed video data to a graphics subsystem via an internal computer path. For purposes of this definition, authorized outputs and methods hereunder are those compliant with requirements contained in Section 6.2 of the CSS Procedural Specifications, including any upgrades or modifications thereto. By way of example and not limitation, the following CSS Compliant Products, if so configured, would be considered to be Protected:

- (a) A DVD Decoder Card incorporating MPEG decoding and any or all of the following outputs:
 - (i) NTSC with appropriate AGC and Colorstripe;
 - (ii) Computer Monitor SVGA (or other computer monitor RGB);
or
 - (iii) Uncompressed digital video directed via an internal computer path to a computer graphic subsystem for display;
- (b) DVD Decoder Software incorporating MPEG decoding and supporting the output described in subsection (a)(iii);
- (c) A DVD Decoder which implements the interrogation or identification functions referenced in Section 6.2.8.2 of the CSS Procedural Specifications; and
- (d) A DVD Player which meets the requirements of section 6.2.1 of the CSS Procedural Specifications.

1.17 “Relatively Necessary Claim” shall mean, any claim(s) of patent(s) or patent application(s), that: (i) are not Absolutely Necessary Claims; and (ii) with respect to which the implementation of all or any portions of the CSS Specifications pertaining to CSS involves a design-around to such patent claim(s) which would have a commercially significant effect on performance, manufacturability or manufacturing cost, although the cost of designing-around itself shall not be taken into account.

- 1.18 “Reseller” shall mean an entity that purchases Schedule 1 or Schedule 2 Products from a CSS Licensee for the purpose of reselling such products without modification and only to another CSS Licensee.
- 1.19 “Schedule 1 Product” shall mean a CSS Compliant Product licensed hereunder which:
- (a) is not a Schedule 2 or 3 Product, or
 - (b) is
 - (i) an Authenticator, or
 - (ii) a Descrambler, or
 - (iii) a CSS Decoder or partial implementation thereof or otherwise is a device which has an output which is not permitted in a Schedule 2 or 3 Product, or
 - (c) is a DVD Disc Formatter.
- 1.20 “Schedule 2 Product” shall mean a CSS Compliant Product licensed hereunder which is not Protected and which outputs descrambled CSS Video Data only in decompressed form.
- 1.21 “Schedule 3 Product” shall mean (a) a CSS Compliant Product licensed hereunder which outputs CSS Data only in a Protected manner or (b) a DVD Disc.
- 1.22 “Toshiba” shall mean Toshiba Corporation and is a registered trademark thereof.

2. LICENSES FROM MEI.

- 2.1 Nonexclusive License. Subject to the terms and conditions of this Agreement, MEI grants Licensee a royalty-free, non-exclusive, nontransferable right, under the Licensed Rights:
- (a) to use and implement CSS to develop, design, manufacture and use CSS Compliant Products that are in the Membership Categories selected by Licensee in Exhibit “A”, and to practice any methods necessary for the manufacture or use of such CSS Compliant Products; and
 - (b) according to Licensee’s membership categories, to purchase, distribute, offer to sell, sell, import and otherwise transfer CSS Compliant

Products either made or received pursuant to authority hereunder only as follows:

- (i) Schedule 1 Products only to CSS Licensees or to Associate Licensee Resellers;
 - (ii) Schedule 2 Products only to CSS Licensees or to Associate Licensees; or
 - (iii) Schedule 3 Products to any person or entity.
- (c) to provide prototype or sample DVD Products incorporating CSS to prospective customers or retained test companies, in each case solely for evaluation in contemplation of purchase of such products or performance of specified testing of such products, as applicable, provided that Licensee (i) may not provide such customers or test companies with any CSS Confidential or Highly Confidential Information unless such information would be provided to companies subject to MEI's CSS Non-Disclosure Agreement; and (ii) must have a written agreement with each such customer and test company that effectively protects the confidentiality of CSS Confidential and Highly Confidential Information by providing at least equivalent protections as are provided in MEI's CSS Non-Disclosure Agreement (Exhibit E).
- (d) Licensee agrees not distribute, offer to sell, sell, import, or otherwise transfer any DVD Products that it makes or receives except in accordance with Sections 2.1(b) and (c) above.

2.2 Copyright License. Subject to the terms and conditions of this Agreement, including without limitation the confidentiality provisions of Section 5.2, for any copyrightable information included in CSS Specifications, MEI grants Licensee a royalty-free, non-exclusive, nontransferable copyright license to use and reproduce CSS Specifications for internal purposes solely in connection with the implementation of CSS as permitted under Section 2.1 hereof.

2.3 No Sublicense or Implied Licenses. Licensee's licenses hereunder include no right to sublicense any rights hereunder. No products or services provided by Licensee give rise to any implied licenses to third parties. Licensee acknowledges and agrees that the licenses granted herein are the only licenses granted to Licensee, and that no other licenses are granted, expressly, by implication or estoppel, now or in the future. All rights not expressly granted to Licensee under this Agreement in and to CSS and the Proprietary Information are reserved and retained by MEI.

3. MEMBERSHIP CATEGORIES AND ADMINISTRATION FEE.

- 3.1 Selection of Membership Categories. Upon the execution of this Agreement, Licensee shall select one or more membership categories set forth in Exhibit "A" (the "Membership Categories"). Licensee may from time to time add or delete Membership Categories upon providing MEI prior written notice and payment of the Administration Fee (as defined below) for each additional Membership Category in accordance with Section 3.2 hereof.
- 3.2 Administration Fee. Concurrent with Licensee's selection of the Membership Categories pursuant to Section 3.1, Licensee shall pay MEI a nonrefundable sum of 1,000,000 Japanese Yen for each Membership Category selected by Licensee (the "Administration Fee"), which fee shall be used to offset the costs associated with MEI's administration of CSS. Licensee shall not be entitled to any refund in connection with any deletion of Membership Categories. As of June 1, 1997, MEI shall have the right to assess from time to time reasonable and nondiscriminatory increases to the Administration Fee as necessary to offset the costs associated with MEI's administration of CSS; provided that such increases shall not in the aggregate in any calendar year exceed three hundred percent of the Administration Fee. Unless Licensee shall have exercised its right to terminate this Agreement pursuant to Section 6.1(d) hereof, Licensee shall pay such assessments.

4. **CSS SPECIFICATIONS.**

- 4.1 Delivery of CSS Specifications. Upon Licensee's selection of one or more Membership Categories in accordance with Article 3, payment of appropriate Administration Fee(s) and after the appropriate approval by the Japanese Government, MEI shall distribute to Licensee the portions of Proprietary Information and/or CSS Specifications appropriate to its Membership Category or Categories. In the event Licensee deletes any Membership Categories, Licensee shall within ten (10) days thereafter return such portions of Proprietary Information and/or CSS Specifications relevant to such deleted Membership Categories.
- 4.2 Compliance with CSS Specifications. Licensee shall comply with the CSS Specifications as may be amended by MEI from time to time. Each DVD Product shall comply with the version of the CSS Specifications which is in effect at the time such DVD Product is manufactured. With respect to any changes to the CSS Specifications made after the date on which this Agreement is entered into the following rules shall apply. All changes shall be notified to all CSS Licensees and shall provide Licensee with sufficient information to incorporate the changes in its design and manufacture of CSS Compliant Products. All changes shall be applied on a non-discriminatory basis among all CSS Licensees. MEI may make changes to clarify or amplify elements of the CSS Specifications in order to preserve essential functions of the CSS Specifications ("Emergency Changes"). Licensee shall implement an Emergency Change as soon as reasonably possible, taking into account the danger to Content Providers being addressed by the Emergency Change. It shall be presumed that Licensee shall implement an Emergency Change not

later than 60 days from receipt of notice of the Emergency Change if it does not require a material change in product design or manufacturing processes. Licensee shall implement all other changes to the CSS Specifications not later than eighteen (18) months from the date MEI notifies Licensee of a change in the CSS Specifications. MEI may request that the eighteen-month time period be shortened with respect to a specific change in the CSS Specifications, and Licensee agrees not to unreasonably withhold its consent to such request. Licensee may request that such time period be extended with respect to a specific change in the CSS Specifications, and MEI agrees not to unreasonably withhold its consent to such request, provided that any such consent will not be effective without the further consent of all other CSS Licensees where the request is subject to the provisions of Section 10.7. The foregoing time periods for implementation of changes in the CSS Specifications shall not be interpreted or applied so as to alter any time limitations set forth in the CSS Procedural Specifications.

5. ADDITIONAL LICENSEE OBLIGATIONS.

5.1 Access to Intellectual Property.

- (a) Absolutely Necessary Claim. Licensee shall not assert any Absolutely Necessary Claim(s) allegedly contained in the portions of the CSS Specifications pertaining to CSS, against MEI or any CSS Licensee (including its Permitted Sublicensees) or vendor, distributor, purchaser or other person in the chain of distribution for the manufacture, use, distribution, offer to sell, sale, import, or other transfer of a CSS Compliant Product which was made under license from MEI, provided that this Section 5.1(a) only applies to those aspects of such CSS Compliant Product which are required for compliance with CSS Specifications and which cannot be implemented without infringing (but for this covenant) the Absolutely Necessary Claim(s) and further provided that this Covenant shall not apply with respect to an entity which is asserting an Absolutely Necessary Claim against Licensee.
- (b) Disc Immunity. Licensee shall not assert any claim(s) based on Disc IP against any CSS Licensee who is a Content Provider, Authoring Studio, or DVD Disc Replicator or vendor, distributor, purchaser or other person in the chain of distribution for the manufacture, use, distribution, offer to sell, sale, import, or other transfer of DVD Disc that: (i) is a CSS Compliant Product; and (ii) was made under license from MEI, provided that (1) this paragraph only applies to those aspects of such DVD Discs which are present for the purpose of complying with the portions of the CSS Specifications pertaining to CSS; and (2) this section shall only apply to DVD Discs themselves, and shall not apply to any apparatus for the manufacture thereof.

(c) Termination of Suits.

If Licensee asserts any Absolutely Necessary Claim(s) or Disc IP claim(s) in violation of the above provisions, Licensee shall terminate or cause to be terminated such assertion of claim.

- (d) Patent License Offer. Licensee shall offer a patent license for any of its/their claims for which Relatively Necessary Claim(s) exist, provided that such license may be limited to Relatively Necessary Claim(s) that are within the scope of the other CSS Licensee's license from MEI. Such license shall be made available on reasonable and non-discriminatory terms to any CSS Licensee in good standing and/or its majority owned subsidiaries. To the extent that a Relatively Necessary Claim that would otherwise be governed by this paragraph is subject to the Disc Immunity governed by Section 5.1(b), such Relatively Necessary Claim shall be governed by Section 5.1(b) rather than this paragraph.

(e) Applicability.

- (1) The provisions of this Section 5.1 related to Absolutely Necessary Claims and Relatively Necessary Claims shall apply with respect to the CSS Specifications in effect on the date on which this Agreement is entered and to any subsequent revision to CSS Specifications where Licensee has specifically agreed in writing to apply Section 5.1 to such revisions.
- (2) Subject to the terms of Section 6.2 hereof, the covenant shall remain in effect for the life of any patent issued throughout the world with a first priority date prior to or during the term of the license granted to Licensee under Article 2.
- (3) Any executed patent license entered into pursuant to Section 5.1(d) shall survive the termination of this Agreement in accordance with its terms.
- (4) Notwithstanding the termination of this Agreement, the obligation to offer a patent license under Section 5.1(d) shall continue after such termination with respect to CSS Compliant Products that were made prior to, or are in production as of, the date of such termination for a license period ending concurrently with the applicable permitted period of distribution set forth in Sections 6.2(a), (b), or (c) as the case may be.

5.2 Confidentiality.

- (a) Permitted Use. Licensee shall use Proprietary Information, Confidential Information and/or Highly Confidential Information (and tangible embodiments of any of the foregoing) solely for purposes of its own

implementation of CSS in accordance with the terms of this Agreement and the CSS Specifications, and shall not use any mentally-retained recollections thereof to circumvent or copy the methods disclosed in Proprietary Information or Confidential Information or to circumvent any obligations under this Agreement.

- (b) Highly Confidential Information. Licensee shall maintain the confidentiality of Highly Confidential Information in the following manner:
- (i) Licensee shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Licensee would employ for its own most highly confidential information, such procedures to include, at a minimum: (1) maintaining on Licensee's premises a secure location in which any and all Highly Confidential Information shall be stored; (2) such secure location shall be accessible only by Authorized Employees (as defined below); (3) Authorized Employees shall sign in and out each time such employees visit such secure location; and (4) when Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location.
 - (ii) Licensee may disseminate Highly Confidential Information only to the strictest minimum possible number of full-time employees of Licensee: (1) who have an absolute need to know such Highly Confidential Information in order to enable Licensee to implement CSS in compliance with the CSS Specifications; (2) who are bound in writing by obligations of confidentiality sufficient to protect the Highly Confidential Information in accordance with the terms of this Agreement; (3) who, prior to the disclosure of such Highly Confidential Information, have: (x) been identified in writing by Licensee to MEI; and (y) read and executed the acknowledgment attached as Exhibit "C" hereto (a copy of such executed acknowledgment to be sent to MEI) ("Authorized Employee"). Licensee shall at all times cause Authorized Employees to strictly abide by their obligations hereunder and shall use the same efforts to enforce the confidentiality obligations of each Authorized Employee after the termination of his/her employment as Licensee uses to enforce with respect to Licensee's own similarly confidential information provided that Licensee shall not use less than reasonable efforts in such enforcement. Licensee shall make all reasonable efforts to assist MEI in relation to any claim, action, suit, proceeding, or litigation with respect to the acts of any of its former employees. Notwithstanding any contrary provision, Licensee shall under no circumstances disseminate any DVD Keys (as defined in the CSS Specifications) to more than three

- (3) Authorized Employees for each Membership Category to which Licensee is licensed and is entitled to disclosure of DVD Keys from MEI ("Key Employees"). Licensee may only substitute a Key Employee in the event of the death, permanent or long-term disability or resignation or termination of an existing Key Employee or reassignment of an existing Key Employee to a substantially different department, section, division or other type of business unit that is not involved in the development, manufacture or sale of CSS Compliant Product. Licensee shall inform MEI in writing prior to the substitution of any Key Employee.
- (iii) Licensee shall not make any copies of any document containing Highly Confidential Information. Licensee may request MEI to provide Licensee with additional copies of such documents. MEI may, in its sole discretion, fulfill any such request, provided that MEI shall not unreasonably refuse to provide requested additional copies.
- (c) Confidential Information. Licensee may disclose Confidential Information only to full-time employees of Licensee who have a reasonable need-to-know and are bound in writing by obligations of confidentiality sufficient to protect the Confidential Information in accordance with the terms of this Agreement. Licensee shall use the same degree of care, but no less than a reasonable degree of care, to avoid unauthorized disclosure or use of Confidential Information as such party employs with respect to its comparably important confidential information. Licensee may discuss or disclose Confidential Information with other CSS Licensees, provided such CSS Licensees are licensed to receive the same type of Confidential Information and are obligated in writing to treat the Confidential Information as if received directly from MEI. Furthermore, Licensee may disclose to potential customers or suppliers the fact that Licensee has obtained a license to CSS from MEI, and show a certificate to such effect provided by MEI to Licensee. Upon Licensee's written request to MEI, MEI shall maintain the fact that such Licensee is a CSS Licensee confidential during the period prior to Licensee's public announcement of its DVD Product intentions or its actual marketing of a DVD Product, whichever is earlier. Except as provided in the immediately preceding sentence, MEI shall have the right to disclose to third parties the fact that Licensee has a license to CSS and the membership categories to which such license is applicable.
- (d) Contact Person and Provision of CSS Information. Licensee shall designate a single Authorized Employee who shall receive all Confidential Information and Highly Confidential Information (the "Licensee Contact") disclosed by MEI. The initial Licensee Contact shall be the individual designated on Exhibit "C" hereto. Prior to the

provision of any Highly Confidential Information to the Licensee Contact, such Licensee Contact shall have complied with all of his/her obligations under Section 5.2(b) hereof. Furthermore, prior to providing any Highly Confidential Information to the Licensee Contact, MEI shall provide the Licensee Contact a brief non-confidential description of the generic nature of such Highly Confidential Information. Within five (5) days after such notice, Licensee shall notify MEI in writing whether it desires to receive or decline to receive such Highly Confidential Information, provided that any decision to decline shall have no effect on any of Licensee's obligations under this Agreement and Licensee shall have no right or license whatsoever with respect to the declined portions of the Highly Confidential Information. Notwithstanding the foregoing, Licensee may waive its rights to receive MEI's prior notice of the generic nature of Highly Confidential Information set forth above by notifying MEI of such waiver in writing.

- (e) No Publication. Except as otherwise expressly provided in Sections 2.2 and 5.2, Licensee shall not publish, disseminate or otherwise disclose or make available Proprietary Information received hereunder to any person, firm or corporation without prior written consent of MEI.
- (f) Notification of Unauthorized Use or Disclosure. Licensee shall notify MEI in writing immediately upon discovery of any unauthorized use or disclosure of Proprietary Information, and will cooperate with MEI in every reasonable way to regain possession of Proprietary Information and prevent its further unauthorized use or disclosure.
- (g) Disclosure Required by Law. In the event Licensee is required by law, regulation or order of a court or other authority of competent jurisdiction to disclose Confidential Information or Highly Confidential Information, Licensee shall notify MEI as promptly as possible, and shall, upon such MEI request, reasonably cooperate in challenging or restricting the scope of such required disclosure.
- (h) Confidentiality Exceptions. The confidentiality restrictions contained in Sections 5.2(a), (b) and (c) herein shall not apply to information that Licensee can demonstrate: (i) is either Confidential or Highly Confidential Information which is or becomes generally known to the public through no breach of Licensee's obligations owed to MEI hereunder and which MEI failed to remove from public availability or to enjoin such public disclosure within ninety (90) days after the date such information is or becomes generally known as set forth above; or (ii) is or has been developed by Licensee's employees (whether independently or jointly with others) without having access (whether directly or through any intermediaries) to any such Confidential Information or Highly Confidential Information (or any translation, derivation or abstractions of Confidential Information or Highly Confidential Information) and without any breach of Licensee's obligations to MEI,

provided that the confidentiality restrictions shall continue to apply to DVD Keys provided to Licensee.

- (i) ~~Prior Agreements.~~ The obligations of this Section 5.2 shall apply to any and all disclosures of Proprietary Information to Licensee prior to the execution of this Agreement. This Agreement shall supersede any inconsistent provisions contained in any confidentiality agreement relating to CSS between the parties hereto including that certain Confidential Disclosure Agreement dated as of _____.

5.3 **Reverse Engineering.** Licensee shall under no circumstances reverse engineer, decompile, disassemble or otherwise determine the operation of CSS Specifications, including, without limitation, any encryption/decryption or scrambling/descrambling algorithm or logic of CSS, except that Licensee may, to the minimum extent necessary for the purposes of testing, debugging, integration or tuning of Licensee's own CSS Compliant Product to ensure that it works in its intended operational environment with other CSS Compliant Products (the "Analysis Purpose"), conduct performance or electrical analyses with respect to the operation of other CSS Compliant Products that form part of such intended operational environment ("Analysis"), subject to the following conditions:

- (a) Licensee shall not perform any Analysis, in whole or in part, for the purpose of deriving or discovering CSS Specifications that have not been made available and licensed by MEI to Licensee hereunder (the "Derived Information").
- (b) To the extent Licensee obtains Derived Information, inadvertently or otherwise, Licensee shall immediately notify MEI, and upon the instruction of MEI, Licensee shall within ten (10) days thereafter return or destroy any portion of Derived Information that is not solely necessary for the Analysis Purpose and cease any use of the same for any purpose.
- (c) Subject to Section 5.3(b) above, the Derived Information: (i) shall only be used for the Analysis Purpose and for no other purposes; and (ii) shall be treated as confidential in the manner corresponding to the same type of information as specified in Section 5.2.
- (d) Nothing herein shall be construed as an inducement for Licensee to reverse engineer any products of any CSS Licensee or third party.
- (e) For purposes of this Section 5.3: (i) "testing" shall mean a process of evaluating Licensee's CSS Compliant Product to ensure proper operation; (ii) "debugging" shall mean a process of finding the cause of an error in a Licensee's or other's CSS Compliant Product, but not analysis for the purpose of exposing possible design features; (iii) "integration" shall mean a process of evaluating the performance of

Licensee's CSS Compliant Product in combination with other CSS Compliant Products to ensure that they properly operate together; and (iv) "tuning" shall mean a process of evaluating and improving Licensee's CSS Compliant Products to work more efficiently with other CSS Compliant Products.

- 5.4 Export. Licensee will comply with all applicable rules and regulations of the Taiwan, Japan and other countries and jurisdictions relating to the export or re-export of commodities, software and technical data insofar as they relate to the activities under this Agreement, and shall obtain an approval required under such rules and regulations whenever it is necessary for such export or re-export. Licensee agrees that commodities, software and technical data provided under this Agreement are subject to restrictions under the export control laws and regulations of Taiwan, Japan and other countries and jurisdictions, as applicable, including but not limited to the Japanese Foreign Exchange and Foreign Trade Control Law, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.

6. TERM/TERMINATION.

- 6.1 Termination. This Agreement shall be effective upon the Effective Date and shall continue until earlier terminated in accordance with any of the following events:
- (a) Breach. If a party hereto defaults on any of its obligations under this Agreement (the "Defaulting Party"), the other party hereto (the "Non-Defaulting Party") shall have the right to terminate this Agreement by written notice describing the nature of the default, wherein such notice shall automatically result in termination unless within thirty (30) calendar days of receiving such written notice of such default, the Defaulting Party remedies the default (the "Cure Period"). The provision of a Cure Period is not intended to imply that an acceptable remedy of a default is limited in any particular case to prospective activities. Notwithstanding the foregoing, the Non-defaulting Party shall have the right to immediately terminate the Defaulting Party upon notice without any Cure Period in the event of the Defaulting Party's material breach of Section 5.2 hereof. Notwithstanding the foregoing, (i) Eligible Licensees shall be entitled to equitable remedies as provided in Sections 9.2 and 9.4 without regard to the foregoing Cure Period; and (ii) the foregoing Cure Period shall not be interpreted or applied so as to extend any time limitations set forth in the CSS Procedural Specifications.
 - (b) Failure to Manufacture and Distribute CSS Compliant. If Licensee has failed to exercise the rights granted under Article 2 to manufacture and commercially distribute CSS Compliant Products: (i) within the first twelve (12) month period commencing upon the execution of this Agreement, provided that such period shall be eighteen (18) months if

Licensee is a DVD Disc Formatter, or (ii) during any consecutive twelve (12) month period thereafter during the term of this Agreement, then MEI may terminate this Agreement upon thirty (30) days prior written notice to Licensee if Licensee continues to manufacture and commercially distribute CSS Compliant Products during such thirty (30) day period. For these purposes, Licensee shall be deemed to have failed to exercise the rights granted under Article 2 to manufacture and commercially distribute CSS Compliant Products only if neither Licensee, nor any other CSS Licensee for which Licensee has designed or manufactured to CSS Compliant Product, shall have manufactured and commercially distributed a CSS Compliant Product.

- (c) Upon Establishment of the Entity. In the event the Entity is formed, MEI's interests in this Agreement shall be automatically assigned to the Entity effective ten (10) days after the Entity first commences operations, and this Agreement shall thereafter continue in full force and effect (subject to Sections 6.1(a) and (b)) until the earlier of: (i) the effective date of a new agreement between Licensee and the Entity; (ii) the effective date of the termination of this Agreement pursuant to written notice provided by Licensee; or (iii) ninety (90) days after the effective date of MEI's assignment of this Agreement to the Entity, unless this time period has been extended by the Entity, in which case this clause (iii) shall be deemed to be automatically and without any further action by any party be amended to the date established in the extension; and/or
- (d) Failure to Establish the Entity. In the event the Entity is not formed and operating as of October 1, 1997 ("Preliminary Target Date") or an applicable Extended Date as set forth below, MEI or Licensee may thereafter terminate this Agreement by sending the other party ninety (90) days prior written notice, in which case the provisions of Section 6.2(c) shall apply. Prior to the Preliminary Target Date, if reasonable terms to establish the Entity as soon as possible are being negotiated in good faith, then the date in this provision shall automatically be extended for a period of two months ("Extended Date") so that the right to terminate for failure to establish the Entity does not come into being. Prior to the Extended Date, if the Entity is not yet formed and operating but if reasonable terms to establish the Entity as soon as possible are being negotiated in good faith, said Extended Date shall be automatically extended for a further period of two months so that the right to terminate for failure to establish the Entity will not come into being. Such extensions will continue to be made in the same manner until the Entity is formed, provided that reasonable terms to establish the Entity as soon as possible are being negotiated in good faith. For purposes of the foregoing, automatic extension as aforesaid shall be deemed to occur, unless MEI gives written notice to the contrary not later than two (2) weeks prior to the Preliminary Target Date or Extended Date (as applicable). For purposes of the foregoing, the fact

that any party to the negotiations takes a position with respect to one or more issues during the course of the negotiations or fails to reach an agreement with respect to one or more issues during the course of negotiations shall not constitute failure to negotiate in good faith on reasonable terms. If MEI gives Licensee notice that it is terminating this Agreement, MEI agrees that a similar notice will be provided to all CSS Licensees within a reasonable period of time before or after MEI provides such notice to Licensee.

6.2 Effect of Termination.

- (a) Material Breach or Failure to Manufacture or Distribute CSS Compliant Products. If MEI terminates this Agreement pursuant to Section 6.1(a) or 6.1(b), all licenses granted by MEI to Licensee shall terminate. If Licensee terminates this Agreement pursuant to Section 6.1(a), the covenant not to sue granted by Licensee under Section 5.1(a) shall terminate, provided, however, Licensee agrees that MEI and the CSS Licensees, and their Permitted Sublicensees, for a period of ninety (90) days after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of Licensee's termination notice. If MEI terminates this Agreement pursuant to Section 6.1 (a) or 6.1(b), the covenant not to sue granted by Licensee under Section 5.1 shall terminate, provided, however, that MEI and the CSS Licensees, and their majority owned subsidiaries, for a period of one (1) year after termination, shall have the right subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice. Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.
- (b) Upon Establishment of Entity. If this Agreement is terminated pursuant to Section 6.1(c): (i) all licenses granted by MEI to Licensee shall terminate, provided, however, that Licensee, for a period of ninety (90) days after termination, shall have the right, subject to the conditions contained in Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice; and (ii) the covenant not to sue granted by Licensee under Section 5.1 (a) shall terminate, provided, however, that MEI and the CSS Licensees, and their Permitted majority owned subsidiaries, for a period of ninety (90) days after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the effective date of termination. Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.

- (c) Upon Failure to Establish the Entity. If this Agreement is terminated pursuant to Section 6.1(d): (i) all licenses granted by MEI to Licensee shall terminate, provided, however, that Licensee, for a period of eighteen (18) months after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice; and (ii) the covenant not to sue granted by Licensee under Section 5.1(a) shall terminate, provided, however, that MEI and the CSS Licensees, and their majority owned subsidiaries, for a period of eighteen (18) months after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of termination. MEI agrees that, after such notices have been provided to CSS Licensees, it will not itself engage in any act that would have been permitted pursuant to this Agreement but would be prohibited to a Licensee whose license has been terminated pursuant to Section 6.1(d). Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.

- 6.3 Return of Materials. Within thirty (30) days after termination of this Agreement, Licensee shall either: (i) return all Proprietary Information to MEI; or (ii) destroy all Proprietary Information in its possession and certify such destruction in writing to MEI, unless: (a) Licensee has then executed a license agreement for CSS with the Entity; and (b) Licensee sends written notice to MEI certifying that Licensee has entered into such agreement.

- 6.4 Survival. The terms of Sections 1, 5.1 (subject to Sections 6.2(a)-(c)), 5.2, 5.3, 5.4, 6.2 and 6.3 and Articles 7, 8, 9 and 10 shall survive the termination of this Agreement.

7. **OWNERSHIP.** All Proprietary Information and media containing Proprietary Information as provided by MEI to Licensee shall remain the property of MEI or its licensors. Except as provided in Article 2, this Agreement does not give Licensee any license or other right to the Proprietary Information.

8. **DISCLAIMER AND LIMITATION OF LIABILITY.**

- 8.1 Disclaimer. ALL PROPRIETARY INFORMATION IS PROVIDED "AS IS." MEI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM THE PROPRIETARY INFORMATION OR LICENSEE'S IMPLEMENTATION OR ATTEMPTED IMPLEMENTATION OF SUCH INFORMATION OR CSS. MEI FURTHER DISCLAIMS ANY WARRANTY THAT CSS AND/OR THE CONTENTS OF THE

PROPRIETARY INFORMATION, OR ANY PRODUCT IMPLEMENTING CSS OR SUCH PROPRIETARY INFORMATION, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

- 8.2 Limitation of Liability. SUBJECT TO SECTION 10.8, MEI OR TOSHIBA, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, OR EMPLOYEES (COLLECTIVELY, THE "AFFECTED PARTIES") SHALL NOT BE LIABLE TO LICENSEE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON MAKING, USING, SELLING OR IMPORTING ANY PRODUCTS OF LICENSEE THAT IMPLEMENT PROPRIETARY INFORMATION OR CSS, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. TO THE EXTENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST MEI NOTWITHSTANDING THE ABOVE LIMITATION, MEI'S TOTAL LIABILITY TO LICENSEE IN CONNECTION WITH THIS AGREEMENT OR CSS SHALL IN NO EVENT EXCEED THE AMOUNTS OF MONEY RECEIVED BY MEI FROM LICENSEE UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY SHALL NOT BE CONSTRUED TO LIMIT OR RELIEVE MEI OR TOSHIBA, RESPECTIVELY, FOR ANY BREACH OF ITS OBLIGATIONS IN ITS CAPACITY AS A CSS LICENSEE.

9. **REMEDIES.**

- 9.1 Indemnification. Licensee shall indemnify and hold, in their roles as developers and licensors of CSS, MEI, Toshiba and their respective majority owned subsidiaries, each of their respective officers, directors and employees, harmless from and against any and all any claims, actions, suits, proceedings or litigation and any losses, deficiencies, damages, liabilities, costs and expenses including without limitation, reasonable attorneys' fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation ("Claims") which result from: (i) any breach of any covenant, agreement, representation and warranties herein by Licensee, its employees, former employees who had access to Confidential Information or Highly Confidential Information pursuant to this Agreement, provided that Licensee's indemnity with respect to acts of former employees shall be limited to circumstances in which Licensee has failed to comply with its obligations as to former employees pursuant to Section 5.2(b)(ii) hereof; (ii) Licensee's manufacture, sale or use of any DVD Products, provided, that such indemnity shall not extend to: (a) any Claim that the CSS Specifications infringe the intellectual property rights of any third parties, or (b) any Claim or any portions thereof that is independently attributable to the terms of the CSS Specifications themselves; and/or (iii) Licensee's activities under Section 5.3.

- 9.2 Equitable Relief. Licensee and MEI recognize and agree that due to the unique nature of certain provisions hereof and the lasting effect of and harm from a breach of such provisions, including making available the means for widespread unauthorized copying of copyrighted content intended to be protected using CSS, in the event that Licensee breaches its obligations under Section 2.1, 2.3, 2.5, 4.2, 5, or 10 hereof, money damages alone will not adequately compensate an injured party, including an injured Eligible Licensee pursuant to Section 9.4, and that injury to such party will be irreparable. Licensee and MEI therefore agree that, in addition to all other remedies available to the injured party at law, in equity, by agreement or otherwise, the injured party, including an Eligible Licensee pursuant to Section 9.4, upon showing to the relevant court's satisfaction that applicable factors other than the fact that harm will be irreparable and that monetary damages are not sufficient to remedy the injury have been fulfilled, shall be entitled to specific performance or other temporary, preliminary, or permanent injunctive or equitable relief including corrective actions appropriate to the circumstances for the enforcement of any such obligation (whether or not there have been commercial sales of products subject to the requested relief).
- 9.3 Specific Remedies. Licensee acknowledges that due to the critical importance of maintaining the integrity of CSS and the inability to calculate the damage to CSS users in the event of any material breach of Section 5.2, MEI, in addition to any other remedies in equity, but in lieu of any and all other claims for monetary damages, may recover liquidated damages for each material breach from Licensee in the amount of one million U.S. dollars (\$1,000,000), provided that the parties agree that Licensee may request and the court may grant such request that this amount be reduced to take account of the fact that Licensee brought the breach to MEI's attention in a timely and reasonable manner. For purposes of this Section 9.3, a series of substantially related events shall constitute a single material breach. For purposes of this Section 9.3, the following is a non-exclusive list of circumstances in which there is no material breach of Section 5.2: (1) if no Confidential Information or Highly Confidential Information was released to a third party not permitted hereunder to have such information or could reasonably have been expected to have been released to such third party as a result of the breach; (2) if Licensee maintains an internal program to assure compliance with Section 5.2 (including a program to assure maintenance of confidentiality of information for purposes in addition to compliance with this Agreement), the breach was inadvertent or otherwise unintentional, and the breach did not have a material adverse effect on the integrity or security of CSS; or (3) if Licensee brought the breach to MEI's attention in a timely manner as required by this Agreement and such breach did not have a material adverse effect on the integrity or security of CSS.
- 9.4 Third Party Beneficiary Rights. The parties hereto acknowledge and agree that the compliance of Licensee, other CSS Licensees, and Associate Licensees with the terms of the licenses granted by this Agreement or the Associate License, as applicable, is essential to maintain the integrity and security of the Contents Scramble System in order to protect prerecorded motion pictures

contained on DVD Discs. As part of the consideration of the licenses granted herein, Licensee, for itself, hereby confers a third-party beneficiary right upon certain CSS Licensees ("Eligible Licensees") that fall into one of two classes: (i) Content Providers ("Eligible Content Providers") or (ii) manufacturers of CSS Compliant Products other than DVD Discs ("Eligible Implementers"), in order to enforce certain of Licensee's obligations, subject to the following conditions:

- (a) Either an Eligible Content Provider who has commercially released one or more prerecorded motion pictures on DVD Disc or an Eligible Implementer who has commercially released one or more CSS Compliant Products other than DVD Discs shall be entitled to initiate or institute a claim or action ("Beneficiary Claim") to enforce only those obligations of Licensee specified as follows (collectively, the "Eligible Obligations"): (i) for any Beneficiary Claim initiated by Eligible Content Providers, Licensee's obligations under Section 2.1 [Nonexclusive License], 2.3 [No Sublicense or Implied Licenses], 4.2 [Compliance with Specifications], 5.1 [Access to Intellectual Property], 5.2 [Confidentiality], 5.3 [Reverse Engineering], 9.2 [Equitable Relief], 9.4(d) [Settlement Restrictions] and Section 10 [Miscellaneous] and including any equivalent provisions contained in any Associate License (Exhibit D); and (ii) for any Beneficiary Claim initiated by Eligible Implementers, Licensee's obligations under Section 4.2 [Compliance with Specifications] solely as such obligations pertain to Section 5.4 [Non-alteration of the Secured Disc Key Set] and Section 6.3 [Motion Picture Scrambling] of the CSS Procedural Specifications, Section 5.1 [Access to Intellectual Property] and Section 9.4(d) [Settlement Restrictions]. Each Eligible Licensee who has not initiated the Beneficiary Claim but falls into the same class of Eligible Licensee as the initiating Eligible Licensee pursuant to this Section 9.4, shall be eligible to join such Beneficiary Claim. The remedies for any Beneficiary Claim shall be limited to equitable relief provided under Section 9.2, subject to Section 9.5.
- (b) Prior to initiating or instituting any Beneficiary Claim against Licensee ("Defendant Licensee"), an Eligible Licensee ("Plaintiff Licensee") shall provide MEI notice and consultation reasonable under the circumstances regarding a proposed Beneficiary Claim; provided that such consultation with MEI shall not affect an Eligible Licensee's complete discretion in initiating such a Beneficiary Claim. Such Eligible Licensee shall further provide MEI with notice of actual filing of a Beneficiary Claim and upon MEI's request, any copies of material documents to be filed in Plaintiff Licensee's initiation or pursuit of such Beneficiary Claim. MEI shall cooperate reasonably with such Eligible Licensee in providing appropriate and necessary information in connection with the Beneficiary Claim to the extent that such cooperation is consistent with the preservation of the integrity and security of CSS. Documents provided to MEI under this Section 9.4(b)

shall not include any documents filed or to be filed under seal in connection with such Beneficiary Claim.

- (c) MEI shall provide all Eligible Content Providers or Eligible Implementers, as the case may be, with prompt notice of Plaintiff Licensee's Beneficiary Claim against Defendant Licensee (a "Claim Notice") in accordance with Section 10.6. Within sixty (60) days of the date of mailing of a Claim Notice, all such Eligible Licensees shall elect whether to join in such Beneficiary Claim, and the failure of any such Eligible Licensee to provide written notice to MEI of such election and to join in such Beneficiary Claim within such sixty (60) day period shall be deemed a waiver of such Eligible Licensee's third party beneficiary right under this Section 9.4 with respect to all Beneficiary Claims against such Defendant Licensee arising out of the alleged breach by such Defendant Licensee raised in such Beneficiary Claims. Plaintiff Licensee shall support, and Defendant Licensee shall not oppose, any motion to intervene by such Eligible Licensees or MEI electing to join such Beneficiary Claim within such sixty (60) day period. Neither an Eligible Licensee's failure to notify or consult with MEI or provide copies of documents to MEI as required by Section 9.4(b), nor MEI's failure to give notice under this Section 9.4(c) shall be a defense against any Beneficiary Claim or grounds for a request to delay the granting of any preliminary relief requested.
- (d) Eligible Licensees shall have no right to, and Licensee agrees that it will not, enter into any settlement that: (i) amends any material term of this Agreement or of the Associate License (Exhibit D); (ii) has a material adverse effect on the integrity and/or security of CSS; or (iii) impacts any of MEI's rights in and to CSS or any intellectual property right embodied therein unless MEI shall have provided prior written consent thereto.
- (e) NOTWITHSTANDING SECTION 10.4(b), LICENSEE AGREES THAT ALL BENEFICIARY CLAIMS INSTITUTED UNDER THIS SECTION 9.4 SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES, AND SHALL BE CONDUCTED IN FEDERAL AND STATE COURTS LOCATED IN ANY COUNTY IN THE STATE OF CALIFORNIA AND HEREBY IRREVOCABLY CONSENTS TO (i) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE STATE OF CALIFORNIA; AND (ii) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER ARISING OUT OF THIS SECTION 9.4 BY PERSONAL DELIVERY OR BY MAILING OF PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESSES AS SPECIFIED IN THIS AGREEMENT OR TO THE

AGENT REQUIRED BY SECTION 10.4(c). LICENSEE WAIVES ANY OBJECTION TO THE JURISDICTION, PROCESS, AND VENUE OF ANY SUCH COURT, AND TO THE EFFECTIVENESS, EXECUTION, AND ENFORCEMENT OF ANY ORDER OR JUDGMENT (INCLUDING, BUT NOT LIMITED TO, A DEFAULT JUDGMENT) OF SUCH COURT PERTAINING TO THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE PLACE WHERE ENFORCEMENT OR EXECUTION OF ANY SUCH ORDER OR JUDGMENT MAY BE SOUGHT AND BY THE LAW OF ANY PLACE WHOSE LAW MIGHT BE CLAIMED TO BE APPLICABLE REGARDING THE EFFECTIVENESS, ENFORCEMENT, OR EXECUTION OF SUCH ORDER OR JUDGMENT, INCLUDING PLACES OUTSIDE OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES.

- 9.5 Nothing contained in Section 9.2 or Section 9.4 is intended to limit remedies or relief available pursuant to statutory or other claims that a CSS Licensee may have under separate legal authority.

10. **MISCELLANEOUS.**

- 10.1 Entire Agreement. This Agreement, the exhibits hereto and the CSS Specifications constitute the entire Agreement between the parties hereto and supersede all oral or written agreements, either entered prior to or contemporaneously with this Agreement. Subject to Section 10.7, this Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both parties.
- 10.2 Assignment. The licenses granted hereunder are personal to Licensee, and Licensee's rights under this Agreement shall not be assigned or otherwise transferred. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties. MEI may assign or transfer this Agreement to another party that agrees to assume MEI's obligations hereunder, and will provide Licensee with written notice thereof. Either party may assign or transfer any of its Disc IP, Absolutely Necessary Claims, or Relatively Necessary Claims provided that the successor-in-interest agrees to be bound by such party's obligations with respect to the Disc IP, Absolutely Necessary Claims, and Relatively Necessary Claims under the terms of this Agreement.
- 10.3 Presumptions. In construing the terms of this Agreement, no presumption shall operate in either party's favor as a result of its counsel's role in drafting the terms or provisions hereof.
- 10.4 Governing Law; Jurisdiction. (a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES. (b) IN

CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO ARISING OUT OF OR RELATING TO THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY CONSENTS TO: (i) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF SANTA CLARA, CALIFORNIA; AND (ii) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER RELATING TO THIS AGREEMENT BY PERSONAL DELIVERY OR BY MAILING OF PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESSES SPECIFIED IN THIS AGREEMENT. OR TO THE AGENT TO BE APPOINTED PURSUANT TO (c), BELOW. (c) LICENSEE SHALL APPOINT AN AGENT IN THE STATE OF CALIFORNIA FOR ACCEPTANCE OF SERVICE OF PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY MEI OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE; (d) LICENSEE WAIVES ANY OBJECTION TO THE JURISDICTION, PROCESS, AND VENUE OF ANY SUCH COURT, AND TO THE EFFECTIVENESS, EXECUTION, AND ENFORCEMENT OF ANY ORDER OR JUDGMENT (INCLUDING, BUT NOT LIMITED TO, A DEFAULT JUDGMENT) OF SUCH COURT PERTAINING TO THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE PLACE WHERE ENFORCEMENT OR EXECUTION OF ANY SUCH ORDER OR JUDGMENT MAY BE SOUGHT AND BY THE LAW OF ANY PLACE WHOSE LAW MIGHT BE CLAIMED TO BE APPLICABLE REGARDING THE EFFECTIVENESS, ENFORCEMENT, OR EXECUTION OF SUCH ORDER OR JUDGMENT, INCLUDING PLACES OUTSIDE OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES.

- 10.5 Severability; Waiver. Subject to Section 10.7, should any clause, sentence, or paragraph of this Agreement judicially be declared to be invalid, unenforceable, or void, such decision shall not have the effect of invalidating or voiding the remainder of this Agreement. The parties agree that the part or parts of this Agreement so held to be invalid, unenforceable, or void shall be reformed without further action by the parties hereto and only to the extent necessary to make such part or parts valid and enforceable. Subject to Section 10.7, a waiver by either of the parties hereto of any of the covenants to be performed by the other party or any breach thereof shall not be effective unless made in writing and signed by the waiving party and shall not be construed to be a waiver of any succeeding breach thereof or of any covenant herein contained.
- 10.6 Notice. All notices to be provided pursuant to this Agreement shall be given in writing and shall be effective when either served by personal delivery or upon receipt via certified mail, return receipt requested, postage prepaid, overnight courier service or sent by facsimile transmission with hard copy confirmation sent by certified mail, in each case to the party at the addresses listed below:

If to MEI:

Matsushita Electric Industrial Co., Ltd.
1006 Kadoma
Osaka 571, Japan
Attn: General Manager, International Contracts Department
Fax: 011-81-6-906-3760

If to Licensee:

WIN TECHNOLOGIES CO., LTD.
4-6, No.81, Sec.1 Hsin Tai Wu Road
Hsi-Chi, Taipei, Taiwan, R.O.C.
Attn: Mr. Tony Chang
Fax: 886-2-698 0576

- 10.7 Amendment. No agreement pertaining to CSS similar to this Agreement or to the Associate License that is Exhibit D hereto between MEI and any CSS Licensee or Associate Licensee may be entered into on terms other than those contained in this Agreement or the Associate License, as applicable, to the extent that any modified terms would have a material adverse effect on the integrity or security of CSS or the protections provided to Eligible Licensees pursuant to Section 9.4 hereof (including any of the Sections referenced therein) or in the Associate License, and no agreement between MEI and any CSS Licensee or Associate Licensee having terms contained herein or the Associate License, as applicable may be modified or its terms waived if such modification or waiver would have a material adverse effect on the integrity or security of CSS or the protections provided to Eligible Licensees pursuant to Section 9.4 hereof (including any of the Sections referenced therein) or in the Associate License.
- 10.8 MEI Obligations. MEI agrees that as the interim licensor, it shall have the following affirmative obligations, breach of which shall be subject to the remedies provided below.
- (a) Prior to the transfer of this Agreement to the Entity, and consistent with its roles as developer of CSS, interim licensor of CSS, and promoter of adoption of CSS, MEI agrees that it will make good faith efforts to maintain the confidentiality of CSS Confidential Information and Highly Confidential Information. MEI shall not be liable for breaches of this Section that are not material. As non-exclusive examples of situations in which a breach is not material under this section, the situations described in Section 9.3 (1), (2), and (3) shall be applicable to MEI in any determination of whether a breach is material. In the event that MEI materially breaches its confidentiality obligation set forth in this Section, MEI's total liability to all CSS Licensees for such breach shall be limited to one million dollars (\$1,000,000) for each such material breach. For purposes of this Section, a series of related events shall constitute a single material breach.

- (b) MEI and Licensee acknowledge that MEI's affirmative obligations under this Agreement (other than as provided in subsection (a) above), consist of the following:
- (i) having filed patent applications as stated in Recital A;
 - (ii) delivery of the CSS Specifications pursuant to Section 4.1;
 - (iii) providing written notice and extending the date of the Entity's formation pursuant to Section 6.1(d);
 - (iv) cooperating reasonably in providing appropriate and necessary information in connection with a Beneficiary Claim filed by Eligible Licensees pursuant to Section 9.4;
 - (v) providing prompt notice to all Eligible Licensees of a Beneficiary Claim pursuant to Section 9.4(c);
 - (vi) providing written notice to Licensee in the event MEI assigns this Agreement pursuant to Section 10.2;
 - (vii) amending, as soon as reasonably possible following the finalization of this Agreement, the specifications applicable to licensees of CSS that entered licenses prior to the use of this Agreement, so that (1) such specifications contain these Procedural Specifications and related Technical Specifications, and (2) each such licensee of CSS is required to comply with such amended specifications no later than 30 days following receipt of MEI's notice containing the amended specifications;
 - (viii) making all reasonable efforts, as soon as possible, to obtain all required consents, from all licensees of CSS that entered licenses prior to the use of this Agreement, to an amended and restated license conforming to this Agreement;
 - (ix) not amending or waiving provisions of this Agreement or of the Associate License pursuant to the conditions set forth in Section 10.7;
 - (x) not unreasonably withholding its consent where such consent is called for under this Agreement;
 - (xi) notifying and applying to Licensee modifications to the Specifications in accordance with Section 4.2;

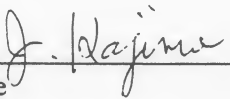
- (xii) not unreasonably withholding agreement for Licensee to receive additional copies of documents containing Highly Confidential Information pursuant to Section 5.2(b)(iii); and
- (xiii) maintaining confidentiality regarding Licensee in accordance with Section 5.2(c).

In the event that MEI fails to perform any of the affirmative obligations set forth in this Section 10.8(b) above, Licensee's sole and exclusive remedy against MEI shall be to have MEI specifically perform such obligations.

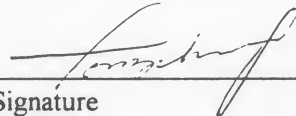
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**MATSUSHITA ELECTRIC INDUSTRIAL
CO., LTD.:**

WIN TECHNOLOGIES CO., LTD.:



Signature



Signature

JIRO KAJINO

Printed Name
Director,
CSS Interim License Organization

Title

Tony Chang

Printed Name
Vice President

Title

November 20, 1997

Date

December 1 1997

Date

EXHIBIT "A"
TO
CSS INTERIM LICENSE AGREEMENT
MEMBERSHIP CATEGORIES

- ☐ Content Provider
- ☐ Authoring Studio
- ☐ DVD Disc Replicator
- ☐ DVD Disc Formatter Manufacturer
- ☐ DVD Player Manufacturer
- ☐ DVD-ROM Drive Manufacturer
- ☒ DVD Decoder Manufacturer (hardware and/or software)
- ☐ Descramble Module Manufacturer (hardware and/or software)
- ☐ Authentication Chip Manufacturer for DVD-ROM Drive
- ☐ Authenticator Manufacturer for DVD Decoder (hardware and/or software)
- ☐ Integrated Product Manufacturer
- ☐ Reseller

EXHIBIT "B"
TO
CSS INTERIM LICENSE AGREEMENT

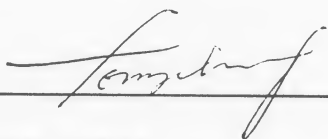
ACKNOWLEDGMENT BY AUTHORIZED EMPLOYEES

I, Tony a full-time employee of Win Technologies Co., Ltd. Taiwanese Corp. ("Licensee"), acknowledge that I have been designated by Licensee as an "Authorized Employee" to receive on behalf of Licensee access to Confidential Information and Highly Confidential Information of MEI for which Licensee is obligated to maintain strictly confidential under the terms of the CSS Interim License Agreement between MEI and Licensee. With respect to Highly Confidential Information, I acknowledge that the CSS Interim License Agreement requires Licensee to employ procedures for safeguarding Highly Confidential Information which procedures include, at a minimum: (i) maintaining on Licensee's premises a secure location in which any and all Highly Confidential Information shall be stored; (ii) such secure location shall be accessible only by Authorized Employees; (iii) Authorized Employees shall sign in and out each time such employees visit such secure location; and (iv) when Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location.

I further acknowledge that I have signed a prior written agreement with Licensee pursuant to which I have agreed to maintain the confidentiality of third party confidential information received by Licensee. I acknowledge that I am bound by such agreement to adhere to procedures established by Licensee to maintain the confidentiality of Confidential Information and Highly Confidential Information during my employment and after my employment with Licensee.

By signing below, I attest that I have read and understood this acknowledgment.

Signed: _____



Name: Tony Chang

Date: December 1, 1997

cc: Matsushita Electric Industrial, Co., Ltd.

EXHIBIT "C"
TO
CSS INTERIM LICENSE AGREEMENT
CONTACT PERSON

Name: **Mr. Tony Chang**

Title: **Vice President**

Division: **Computer Division**

Company: **WIN TECHNOLOGIES CO., LTD.**

Address: **4F-6, No.81, Sec.1 Hsin Tai Wu Road,
Hsi-Chi, Taipei, Taiwan, R.O.C.**

Telephone Number: **886-2-26984846**

Facsimile Number: **886-2-26980576**

EXHIBIT "D"
TO
CSS INTERIM LICENSE AGREEMENT
ASSOCIATE LICENSE AGREEMENT

[To be provided at a later date]

CSS INTERIM LICENSE AGREEMENT

This **CSS INTERIM LICENSE AGREEMENT**, including the related **CSS PROCEDURAL AND TECHNICAL SPECIFICATIONS**, (collectively, this "Agreement") is made and entered into as of September 24, 1997 (the "Effective Date") by and between: (i) **MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.**, a Japanese corporation having offices located at 1006 Kadoma, Osaka 571 Japan ("MEI"); and (ii) **WIN TECHNOLOGIES CO., LTD.**, a Taiwanese corporation having offices located at 5F, No. 14-16 Lane 50, Section 3 Nan Kang Road Taipei, Taiwan ("Licensee"). This Agreement shall be effective as of the Effective Date provided that it is executed by the parties hereto.

RECITALS

- A. MEI and Toshiba (as defined below) have developed a Contents Scramble System (as defined below) to provide reasonable security to the contents of DVD Discs and thereby provide protection for copyrighted content against unauthorized consumer copying, and have filed patent applications with respect to the Content Scramble System.
- B. MEI and Toshiba intend to license the Contents Scramble System to a new independent entity which will administer such system.
- C. The independent entity is expected to be established by MEI, Toshiba and others in the DVD industry within several months.
- D. During the period from the Effective Date until the establishment and operation of the entity, Toshiba has granted to MEI a license to Toshiba's rights to the Contents Scramble System, and MEI will serve as the licensing agent for the Contents Scramble System to grant licenses to third parties which desire to implement such system in DVD products.
- E. This Agreement: (i) is intended to be an interim agreement that is effective until the entity is established and makes available its standard license agreement; and (ii) sets forth the terms and conditions under which MEI will grant Licensee the right to implement the security system on its DVD products.

AGREEMENT

- 1. **DEFINITIONS.** In addition to the other capitalized terms used in this Agreement and in addition to the terms defined in the CSS Procedural Specifications (which terms shall have the meanings set forth in the Procedural Specifications), the following terms shall have the following meanings:
 - 1.1 "Absolutely Necessary Claim" shall mean any claim(s) of patent(s) or patent application(s) which are infringed by the manufacture, import, use or sale of CSS Compliant Products because: (i) the CSS Specifications pertaining to CSS are read on by such claim(s); or (ii) products that, solely because of the requirement to

implement the CSS Specifications pertaining to CSS, cannot be manufactured, used, distributed, offered to be sold, sold, imported, or otherwise transferred without infringing such claim(s).

- 1.2 "Associate Licensee" shall mean any third party that enters into an agreement, containing substantially the same terms as those set out in Attachment D ("Associate License").
- 1.3 "Associate Licensee Reseller" shall mean an Associate Licensee entering an Associate License for the purpose of being authorized to purchase and resell Schedule 1 and Schedule 2 Products, subject to the redistribution requirements of the Associate License.
- 1.4 "Confidential Information" shall mean Proprietary Information that is either marked "confidential" or "proprietary" when disclosed in written form or indicated as "confidential" or "proprietary" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure.
- 1.5 "CSS" or "Contents Scramble System" shall mean the Contents Scramble System developed by MEI and Toshiba and designed to provide reasonable protection for the contents of DVD Discs, as more fully described in the CSS Specifications, excluding any unrelated or independent technology incidentally referenced by or used with the CSS Specifications such as MPEG technology and DVD technology.
- 1.6 "CSS Compliant Products" shall mean DVD Products which are compliant with the CSS Specifications.
- 1.7 "CSS Licensee" shall mean any third party that enters into an agreement with MEI where such agreement contains substantially the same terms as those set forth in this Agreement and is valid and in effect. CSS Licensees shall include MEI and Toshiba in each of their respective capacities in manufacturing, using, distributing, offering for sale, selling, importing or otherwise transferring DVD Products.
- 1.8 "CSS Specifications" shall mean the documentation relating to CSS entitled "CSS Specifications" (including the Procedural Specifications and the Technical Specifications) that MEI makes available to Licensee pursuant to the Membership Categories selected by Licensee, as such documentation may be revised from time to time consistent with Section 10.7 hereof.
- 1.9 "Disc IP" shall mean any copyright, trade secret, or other intellectual property inherent in the CSS Specifications pertaining to CSS or any patent claim(s) (including but not limited to any Absolutely Necessary Claims or Relatively Necessary Claims) relating to implementation of CSS in any DVD Disc.
- 1.10 "DVD Products" shall mean the following products if they incorporate any portion of CSS: DVD Players, DVD-ROM Drives, Descramblers, Authenticators, DVD

Decoders (implemented in hardware as DVD Decoder Cards and/or in software as DVD Decoder Software), DVD Disc Formatters, DVD Discs and Integrated Products.

- 1.11 "Entity" shall mean the organization to administer CSS to be established by MEI, Toshiba, and other DVD industry members.
- 1.12 "Highly Confidential Information" shall mean Proprietary Information that is either marked "Highly Confidential Information" when disclosed in written form or indicated as "Highly Confidential Information" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure. Such information shall be limited to information constituting or disclosing: (i) the algorithms used for scrambling, descrambling, authentication and key recovery; (ii) master, disc, title or authentication keys; and (iii) information for testing product compliance with CSS where such information makes use of or reveals information described in (i) or (ii).
- 1.13 "Integrated Product" shall mean a combination of any one or more of a DVD Player, DVD-ROM Drive, Descrambler, Authenticator, or DVD Decoder with any other product, device or component into a single integrated unit that permits, or that is designed for further integration into a product that permits, the transmission of unscrambled content in digital or analog format to any internal or external output or connection, provided that use of the term "Integrated Product" does not affect the obligations or provisions pertaining to any separately defined DVD Product. Integrated Products may include by way of example and not of limitation: (i) integration of DVD-ROM Drives or DVD Decoder Cards with or into computer systems; and (ii) integration of DVD-ROM Drives or DVD Players with or into television receivers and videocassette recorders. The term "Integrated Product" shall include a combination of products linked together through a form of common operation that controls the transfer of CSS Data among the products.
- 1.14 "Licensed Rights" shall mean all Absolutely Necessary Claims, copyrights, trade secret rights, and other proprietary rights in any jurisdiction, and all applications and registrations therefor in and to CSS (including the Proprietary Information), that MEI (during the term of this Agreement) owns or has the right to grant licenses of the scope granted herein without the agreement of, or requirement for payment (or provision of other consideration) to any person or entity.
- 1.15 "Proprietary Information" shall mean any and all information relating to CSS made available to Licensee directly by MEI, by any other CSS Licensee or pursuant to Section 5.3 prior hereto or during the term of this Agreement including, without limitation, CSS Specifications, software, hardware, firmware, documentation, designs, flow charts, technical data, outlines, blueprints, notes, drawings, prototypes, templates, systems, manuals, know-how, processes and methods of operation.
- 1.16 "Protected" shall mean a configuration in which a data stream or signal is not output except (i) via encrypted, scrambled, or otherwise secure link or method authorized

hereunder either through a device's or component's authorized output or to the next component or device which in turn has an authorized output; or (ii) directly as uncompressed video data to a graphics subsystem via an internal computer path. For purposes of this definition, authorized outputs and methods hereunder are those referenced in sections 6.2.1.1, 6.2.1.3, 6.2.2, 6.2.4, and 6.2.5 of the CSS Procedural Specifications, including any upgrades or modifications thereto. By way of example and not limitation, the following CSS Complaint Products, if so configured, would be considered to be Protected:

- (a) A DVD Decoder Card incorporating MPEG decoding and any or all of the following outputs:
 - (i) NTSC with appropriate AGC and Colorstripe;
 - (ii) Computer Monitor SVGA (or other computer monitor RGB); or
 - (iii) Uncompressed digital video directed via an internal computer path to a computer graphic subsystem for display;
- (b) DVD Decoder Software incorporating MPEG decoding and supporting the output described in subsection (a)(iii);
- (c) A DVD Decoder which implements the interrogation or identification functions referenced in Section 6.2.8.2 of the CSS Procedural Specifications; and
- (d) A DVD Player which meets the requirements of section 6.2.1 of the CSS Procedural Specifications.

- 1.17 "Relatively Necessary Claim" shall mean, any claim(s) of patent(s) or patent application(s), that: (i) are not Absolutely Necessary Claims; and (ii) with respect to which the implementation of all or any portions of the CSS Specifications pertaining to CSS involves a design-around to such patent claim(s) which would have a commercially significant effect on performance, manufacturability or manufacturing cost, although the cost of designing-around itself shall not be taken into account.
- 1.18 "Reseller" shall mean an entity that purchases Schedule 1 or Schedule 2 Products from a CSS Licensee for the purpose of reselling such products without modification only to another CSS Licensee.
- 1.19 "Schedule 1 Product" shall mean a CSS Complaint Product licensed hereunder which:
 - (a) is not a Schedule 2 or 3 Product,
 - (b) is

- (i) an Authenticator,
 - (ii) a Descrambler, or
 - (iii) a CSS Decoder or partial implementation thereof or otherwise is a device which has an output which is not permitted in a Schedule 2 or 3 Product, or
 - (c) is a DVD Disc Formatter.
- 1.20 "Schedule 2 Product" shall mean a CSS Complaint Product licensed hereunder which is not Protected and which outputs descrambled CSS Video Data only in decompressed form.
- 1.21 "Schedule 3 Product" shall mean a CSS Complaint Product licensed hereunder which outputs CSS Data only in a Protected manner or a DVD Disc.
- 1.22 "Toshiba" shall mean Toshiba Corporation and is a registered trademark thereof.

2. LICENSES FROM MEI.

- 2.1 Nonexclusive License. Subject to the terms and conditions of this Agreement, MEI grants Licensee a royalty-free, non-exclusive, nontransferable right, under the Licensed Rights:
- (a) to use and implement CSS to develop, manufacture and use CSS Compliant Products that are in the Membership Categories selected by Licensee in Exhibit "A", and to practice any methods necessary for the manufacture or use of such CSS Complaint Products; and
 - (b) according to Licensee's membership categories, to distribute, offer to sell, sell, import and otherwise transfer CSS Complaint Products either made or received pursuant to authority hereunder only as follows:
 - (i) Schedule 1 Products only to CSS Licensees or to Associate Licensee Resellers;
 - (ii) Schedule 2 Products only to CSS Licensees or to Associate Licensees; or
 - (iii) Schedule 3 Products to any person or entity;
 - (c) to provide prototype or sample DVD Products incorporating CSS to prospective customers or retained test companies solely, in each case for evaluation in contemplation of purchase of such products or performance of specified testing of such products, as applicable, provided that Licensee (i)

may not provide such customers or test companies with any CSS Confidential or Highly Confidential Information.

- (d) Licensee agrees not distribute, offer to sell, sell, import, or otherwise transfer any DVD Products that it makes or receives except pursuant to Sections 2.1(b) and (c) above.

2.2 Copyright License. Subject to the terms and conditions of this Agreement, including without limitation the confidentiality provisions of Section 5.2, for any copyrightable information included in CSS Specifications, MEI grants Licensee a royalty-free, non-exclusive, nontransferable copyright license to use and reproduce CSS Specifications for internal purposes solely in connection with the implementation of CSS as permitted under Section 2.1 hereof.

2.3 No Sublicense or Implied Licenses. Licensee's licenses hereunder include no right to sublicense any rights hereunder. No products or services provided by Licensee give rise to any implied licenses to third parties. Except as expressly provided in Sections 2.1 and 2.2, Licensee acknowledges and agrees that the licenses granted herein are the only licenses granted to Licensee, and that no other licenses are granted, expressly, by implication or estoppel, now or in the future. All rights not expressly granted to Licensee under this Agreement are reserved and retained by MEI.

3. **MEMBERSHIP CATEGORIES AND ADMINISTRATION FEE.**

3.1 Selection of Membership Categories. Upon the execution of this Agreement, Licensee shall select one or more membership categories set forth in Exhibit "A" (the "Membership Categories"). Licensee may from time to time add or delete Membership Categories upon providing MEI prior written notice and payment of the Administration Fee (as defined below) for each additional Membership Category in accordance with Section 3.2 hereof.

3.2 Administration Fee. Concurrent with Licensee's selection of the Membership Categories pursuant to Section 3.1, Licensee shall pay MEI a nonrefundable sum of 1,000,000 Japanese Yen for each Membership Category selected by Licensee (the "Administration Fee"), which fee shall be used to offset the costs associated with MEI's administration of CSS. Licensee shall not be entitled to any refund in connection with any deletion of Membership Categories. As of June 1, 1997, MEI shall have the right to assess from time to time reasonable and nondiscriminatory increases to the Administration Fee as necessary to offset the costs associated with MEI's administration of CSS; provided that such increases shall not in the aggregate in any calendar year exceed three hundred percent of the Administration Fee. Unless Licensee shall have exercised its right to terminate this Agreement pursuant to Section 6.1(d) hereof, Licensee shall pay such assessments.

4. **CSS SPECIFICATIONS.**

- 4.1 Delivery of CSS Specifications. Upon Licensee's selection of one or more Membership Categories in accordance with Article 3, payment of appropriate Administration Fee(s) and after the appropriate approval by the Japanese Government, MEI shall distribute to Licensee the portions of Proprietary Information and/or CSS Specifications appropriate to its Membership Category or Categories. In the event Licensee deletes any Membership Categories, Licensee shall within ten (10) days thereafter return such portions of Proprietary Information and/or CSS Specifications relevant to such deleted Membership Categories.
- 4.2 Compliance with CSS Specifications. Licensee shall comply with the CSS Specifications as may be amended by MEI from time to time. Each CSS Compliant Product shall comply with the version of the CSS Specifications which is in effect at the time such CSS Compliant Product is manufactured. With respect to any changes to the CSS Specifications made after the date on which this Agreement is entered into the following rules shall apply. All changes shall be notified to all CSS Licensees and shall provide Licensee with sufficient information to incorporate the changes in its design and manufacture of CSS Complaint Products. All changes shall be applied on a non-discriminatory basis among all CSS Licensees. MEI may make changes to clarify or amplify elements of the CSS Specifications in order to preserve essential functions of the CSS Specifications ("Emergency Changes"). Licensee shall implement an Emergency Change as soon as reasonably possible, taking into account the danger to Content Providers being addressed by the Emergency Change. It shall be presumed that Licensee shall implement an Emergency Change not later than 60 days from receipt of notice of the Emergency Change if it does not require a material change in product design or manufacturing processes. Licensee shall implement all other changes to the CSS Specifications not later than eighteen (18) months from the date MEI notifies Licensee of a change in the CSS Specifications. MEI may request that the eighteen-month time period be shortened with respect to a specific change in the CSS Specifications, and Licensee agrees not to unreasonably withhold its consent to such request. Licensee may request that such time period be extended with respect to a specific change in the CSS Specifications, and MEI agrees not to unreasonably withhold its consent to such request, provided that any such consent will not be effective without the further consent of all other CSS Licensees where the request is subject to the provisions of Section 10.7. The foregoing time periods for implementation of changes in the CSS Specifications shall not be interpreted or applied so as to alter any time limitations set forth in Section 6.2.4 of the CSS Procedural Specifications.

5. **ADDITIONAL LICENSEE OBLIGATIONS.**

- 5.1 Access to Intellectual Property.
- (a) Absolutely Necessary Claim. Licensee shall not assert any Absolutely Necessary Claim(s) allegedly contained in the portions of the CSS

Specifications pertaining to CSS, against MEI or any CSS Licensee (including its majority owned subsidiary) or vendor, distributor, purchaser or other person in the chain of distribution for the manufacture, use, distribution, offer to sell, sale, import, or other transfer of a CSS Compliant Product which was made under license from MEI, provided that this Section 5.1(a) only applies to those aspects of such CSS Compliant Product which are required for compliance with CSS Specifications and which cannot be implemented without infringing (but for this covenant) the Absolutely Necessary Claim(s) and further provided that this Covenant shall not apply with respect to an entity which is asserting an Absolutely Necessary Claim against Licensee.

- (b) Disc Immunity. Licensee shall not assert any claim(s) based on Disc IP against any CSS Licensee who is a Content Provider, Authoring Studio, or DVD Disc Replicator or vendor, distributor, purchaser or other person in the chain of distribution for the manufacture, use, distribution, offer to sell, sale, import, or other transfer of DVD Disc that: (i) is a CSS Compliant Product; and (ii) was made under license from MEI, provided that (1) this paragraph only applies to those aspects of such DVD Discs which are present for the purpose of complying with the portions of the CSS Specifications pertaining to CSS; and (2) this section shall only apply to DVD Discs themselves, and shall not apply to any apparatus for the manufacture thereof.

- (c) Termination of Suits.

If Licensee asserts any Absolutely Necessary Claim(s) or Disc IP claim(s) in violation of the above provisions, Licensee shall terminate or cause to be terminated such assertion of claim.

- (d) Patent License Offer. Licensee shall offer a patent license for any of its/their claims for which Relatively Necessary Claim(s) exist, provided that such license may be limited to Relatively Necessary Claim(s) that are within the scope of the other CSS Licensee's license from MEI. Such license shall be made available on reasonable and non-discriminatory terms to any CSS Licensee in good standing. To the extent that a Relatively Necessary Claim that would otherwise be governed by this paragraph is subject to the Disc Immunity governed by Section 5.1(b), such Relatively Necessary Claim shall be governed by Section 5.1(b) rather than this paragraph.

- (e) Applicability.

- (1) The provisions of this Section 5.1 related to Absolutely Necessary Claims and Relatively Necessary Claims shall apply with respect to the CSS Specifications in effect on the date on which this Agreement is entered and to any subsequent revision to CSS Specifications where Licensee has specifically agreed in writing to apply Section 5.1 to such revisions.

- (2) Subject to the terms of Section 6.2 hereof, the covenant shall remain in effect for the life of any patent issued throughout the world with a first priority date prior to or during the term of the license granted to Licensee under Article 2.
- (3) Any executed patent license entered into pursuant to Section 5.1(d) shall survive the termination of this Agreement in accordance with its terms.
- (4) Notwithstanding the termination of this Agreement, the obligation to offer a patent license under Section 5.1(d) shall continue after such termination with respect to CSS Compliant Products that were made prior to, or are in production as of, the date of such termination for a license period ending concurrently with the applicable permitted period of distribution set forth in Sections 6.2(a), (b), or (c) as the case may be.

5.2 Confidentiality.

- (a) Permitted Use. Licensee shall use Proprietary Information, Confidential Information and/or Highly Confidential Information (and tangible embodiments of any of the foregoing) solely for purposes of its own implementation of CSS in accordance with the terms of this Agreement and the CSS Specifications, and shall not use any mentally-retained recollections thereof to circumvent or copy the methods disclosed in Proprietary Information or Confidential Information or to circumvent any obligations under this Agreement.
- (b) Highly Confidential Information. Licensee shall maintain the confidentiality of Highly Confidential Information in the following manner:
 - (i) Licensee shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Licensee would employ for its own most highly confidential information, such procedures to include, at a minimum: (1) maintaining on Licensee's premises a secure location in which any and all Highly Confidential Information shall be stored; (2) such secure location shall be accessible only by Authorized Employees (as defined below); (3) Authorized Employees shall sign in and out each time such employees visit such secure location; and (4) when Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location.
 - (ii) Licensee may disseminate Highly Confidential Information only to the strictest minimum possible number of full-time employees of Licensee: (1) who have an absolute need to know such Highly Confidential

Information in order to enable Licensee to implement CSS in compliance with the CSS Specifications; (2) who are bound in writing by obligations of confidentiality sufficient to protect the Highly Confidential Information in accordance with the terms of this Agreement; (3) who, prior to the disclosure of such Highly Confidential Information, have: (x) been identified in writing by Licensee to MEI; and (y) read and executed the acknowledgment attached as Exhibit "B" hereto (a copy of such executed acknowledgment to be sent to MEI) ("Authorized Employee"). Licensee shall at all times cause Authorized Employees to strictly abide by their obligations hereunder and shall use the same efforts to enforce the confidentiality obligations of each Authorized Employee after the termination of his/her employment as Licensee uses to enforce with respect to Licensee's own similarly confidential information provided that Licensee shall not use less than reasonable efforts in such enforcement. Licensee shall make all reasonable efforts to assist MEI in relation to any claim, action, suit, proceeding, or litigation with respect to the acts of any of its former employees. Notwithstanding any contrary provision, Licensee shall under no circumstances disseminate any DVD Keys (as defined in the CSS Specifications) to more than three (3) Authorized Employees for each Membership Category to which Licensee is licensed and is entitled to disclosure of DVD Keys from MEI ("Key Employees"). Licensee may only substitute a Key Employee in the event of the death, permanent or long-term disability or resignation or termination of an existing Key Employee or reassignment of an existing Key Employee to a substantially different department, section, division or other type of business unit that is not involved in the development, manufacture or sale of CSS Compliant Product. Licensee shall inform MEI in writing prior to the substitution of any Key Employee.

- (iii) Licensee shall not make any copies of any document containing Highly Confidential Information. Licensee may request MEI to provide Licensee with additional copies of such documents. MEI may, in its sole discretion, fulfill any such request, provided that MEI shall not unreasonably refuse to provide requested additional copies.
- (c) Confidential Information. Licensee may disclose Confidential Information only to full-time employees of Licensee who have a reasonable need-to-know and are bound in writing by obligations of confidentiality sufficient to protect the Confidential Information in accordance with the terms of this Agreement. Licensee shall use the same degree of care, but no less than a reasonable degree of care, to avoid unauthorized disclosure or use of Confidential Information as such party employs with respect to its comparably important confidential information. Licensee may discuss or disclose Confidential Information with other CSS Licensees, provided such CSS Licensees are

licensed to receive the same type of Confidential Information and are obligated in writing to treat the Confidential Information as if received directly from MEI. Furthermore, Licensee may disclose to potential customers or suppliers of the fact that Licensee has obtained a license to CSS from MEI, and show a certificate to such effect provided by MEI to Licensee. Upon Licensee's written request to MEI, MEI shall maintain the fact that such Licensee is a CSS Licensee confidential during the period prior to Licensee's public announcement of its DVD Product intentions or its actual marketing of a DVD Product, whichever is earlier. Except as provided in the immediately preceding sentence, MEI shall have the right to disclose to third parties the fact that Licensee has a license to CSS and the membership categories to which such license is applicable.

- (d) Contact Person and Provision of CSS Information. Licensee shall designate a single Authorized Employee who shall receive all Confidential Information and Highly Confidential Information (the "Licensee Contact") disclosed by MEI. The initial Licensee Contact shall be the individual designated on Exhibit "C" hereto. Prior to the provision of any Highly Confidential Information to the Licensee Contact, such Licensee Contact shall have complied with all of his/her obligations under Section 5.2(b) hereof. Furthermore, prior to providing any Highly Confidential Information to the Licensee Contact, MEI shall provide the Licensee Contact a brief non-confidential description of the generic nature of such Highly Confidential Information. Within five (5) days after such notice, Licensee shall notify MEI in writing whether it desires to receive or decline to receive such Highly Confidential Information, provided that any decision to decline shall have no effect on any of Licensee's obligations under this Agreement and Licensee shall have no right or license whatsoever with respect to the declined portions of the Highly Confidential Information. Notwithstanding the foregoing, Licensee may waive its rights to receive MEI's prior notice of the generic nature of Highly Confidential Information set forth above by notifying MEI of such waiver in writing.
- (e) No Publication. Except as otherwise expressly provided in Sections 2.2 and 5.2, Licensee shall not publish, disseminate or otherwise disclose or make available Proprietary Information received hereunder to any person, firm or corporation without prior written consent of MEI.
- (f) Notification of Unauthorized Use or Disclosure. Licensee shall notify MEI in writing immediately upon discovery of any unauthorized use or disclosure of Proprietary Information, and will cooperate with MEI in every reasonable way to regain possession of Proprietary Information and prevent its further unauthorized use or disclosure.
- (g) Disclosure Required by Law. In the event Licensee is required by law, regulation or order of a court or other authority of competent jurisdiction to

disclose Confidential Information or Highly Confidential Information, Licensee shall notify MEI as promptly as possible, and shall, upon such MEI request, reasonably cooperate in challenging or restricting the scope of such required disclosure.

- (h) Confidentiality Exceptions. The confidentiality restrictions contained in Sections 5.2(a), (b) and (c) herein shall not apply to information that Licensee can demonstrate: (i) is either Confidential or Highly Confidential Information which is or becomes generally known to the public through no breach of Licensee's obligations owed to MEI hereunder and which MEI failed to remove from public availability or to enjoin such public disclosure within ninety (90) days after the date such information is or becomes generally known as set forth above; or (ii) is or has been developed by Licensee's employees (whether independently or jointly with others) without having access (whether directly or through any intermediaries) to any such Confidential Information or Highly Confidential Information (or any translation, derivation or abstractions of Confidential Information or Highly Confidential Information) and without any breach of Licensee's obligations to MEI, provided that the confidentiality restrictions shall continue to apply to DVD Keys provided to Licensee.

- (i) Prior Agreements. The obligations of this Section 5.2 shall apply to any and all disclosures of Proprietary Information to Licensee prior to the execution of this Agreement. This Agreement shall supersede any inconsistent provisions contained in any confidentiality agreement relating to CSS between the parties hereto including that certain Confidential Disclosure Agreement dated as of _____.

5.3 Reverse Engineering. Licensee shall under no circumstances reverse engineer, decompile, disassemble or otherwise determine the operation of CSS Specifications, including, without limitation, any encryption/decryption or scrambling/descrambling algorithm or logic of CSS, except that Licensee may, to the minimum extent necessary for the purposes of testing, debugging, integration or tuning of Licensee's own CSS Compliant Product to ensure that it works in its intended operational environment with other CSS Compliant Products (the "Analysis Purpose"), conduct performance or electrical analyses with respect to the operation of other CSS Compliant Products that form part of such intended operational environment ("Analysis"), subject to the following conditions:

- (a) Licensee shall not perform any Analysis, in whole or in part, for the purpose of deriving or discovering CSS Specifications that have not been made available and licensed by the MEI to Licensee hereunder (the "Derived Information").
- (b) To the extent Licensee obtains Derived Information, inadvertently or otherwise, Licensee shall immediately notify MEI, and upon the instruction of

MEI, Licensee shall within ten (10) days thereafter return or destroy any portion of Derived Information that is not solely necessary for the Analysis Purpose and cease any use of the same for any purpose.

- (c) Subject to Section 5.3(b) above, the Derived Information: (i) shall only be used for the Analysis Purpose and for no other purposes; and (ii) shall be treated as confidential in the manner corresponding to the same type of information as specified in Section 5.2.
- (d) Nothing herein shall be construed as an inducement for Licensee to reverse engineer any products of any CSS Licensee or third party.
- (e) For purposes of this Section 5.3: (i) "testing" shall mean a process of evaluating Licensee's CSS Compliant Product to ensure proper operation; (ii) "debugging" shall mean a process of finding the cause of an error in a Licensee's or other's CSS Compliant Product, but not analysis for the purpose of exposing possible design changes; (iii) "integration" shall mean a process of evaluating the performance of Licensee's CSS Compliant Product in combination with other CSS Compliant Products to ensure that they properly operate together; and (iv) "tuning" shall mean a process of evaluating and improving Licensee's CSS Compliant Products to work more efficiently with other CSS Compliant Products.

5.4 Export. Licensee will comply with all applicable rules and regulations of Taiwan, Japan and other countries and jurisdictions relating to the export or re-export of commodities, software and technical data insofar as they relate to the activities under this Agreement, and shall obtain an approval required under such rules and regulations whenever it is necessary for such export or re-export. Licensee agrees that commodities, software and technical data provided under this Agreement are subject to restrictions under the export control laws and regulations of Taiwan, Japan and other countries and jurisdictions, as applicable, including but not limited to the Japanese Foreign Exchange and Foreign Trade Control Law, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.

6. TERM/TERMINATION.

6.1 Termination. This Agreement shall be effective upon the Effective Date and shall continue until earlier terminated in accordance with any of the following events:

- (a) Breach. If a party hereto defaults on any of its obligations under this Agreement (the "Defaulting Party"), the other party hereto (the "Non-Defaulting Party") shall have the right to terminate this Agreement by written notice describing the nature of the default, wherein such notice shall automatically result in termination unless within thirty (30) calendar days of receiving such written notice of such default, the Defaulting Party remedies

the default (the "Cure Period"). The provision of a Cure Period is not intended to imply that an acceptable remedy of a default is limited in any particular case to prospective activities. Notwithstanding the foregoing, the Non-defaulting Party shall have the right to immediately terminate the Defaulting Party upon notice without any Cure Period in the event of the Defaulting Party's material breach of Section 5.2 hereof. Notwithstanding the foregoing, (i) Eligible Licensees shall be entitled to equitable remedies as provided in Sections 9.2 and 9.4 without regard to the foregoing Cure Period; and (ii) the foregoing Cure Period shall not be interpreted or applied so as to extend any time limitations set forth in the Section 6.2.4 of the CSS Procedural Specifications

- (b) Manufacture and Distribution of CSS Compliant Products. If in accordance with its rights under Article 2 Licensee fails to manufacture and commercially distribute or sell any CSS Compliant Products (i) within a twelve (12) month period after the execution of this Agreement; or (ii) during any twelve (12) month period during the term of this Agreement, then MEI may terminate this Agreement by providing Licensee thirty (30) calendar days prior written notice.
- (c) Upon Establishment of the Entity. In the event the Entity is formed, MEI's interests in this Agreement shall be automatically assigned to the Entity effective ten (10) days after the Entity first commences operations, and this Agreement shall thereafter continue in full force and effect (subject to Sections 6.1(a) and (b)) until the earlier of: (i) the effective date of a new agreement between Licensee and the Entity; (ii) the effective date of the termination of this Agreement pursuant to written notice provided by Licensee; or (iii) ninety (90) days after the effective date of MEI's assignment of this Agreement to the Entity, unless this time period has been extended by the Entity, in which case this clause (iii) shall be deemed to be automatically and without any further action by any party be amended to the date established in the extension; and/or
- (d) Failure to Establish the Entity. In the event the Entity is not formed and operating as of October 1, 1997 ("Preliminary Target Date") or an applicable Extended Date as set forth below, MEI or Licensee may thereafter terminate this Agreement by sending the other party ninety (90) days prior written notice, in which case the provisions of Section 6.2(c) shall apply. Prior to the Preliminary Target Date, if reasonable terms to establish the Entity as soon as possible are being negotiated in good faith, then the date in this provision shall automatically be extended for a period of two months ("Extended Date") so that the right to terminate for failure to establish the Entity does not come into being. Prior to the Extended Date, if the Entity is not yet formed and operating but if reasonable terms to establish the Entity as soon as possible are being negotiated in good faith, said Extended Date shall be automatically extended for a further period of two months so that the right to terminate for

failure to establish the Entity will not come into being. Such extensions will continue to be made in the same manner until the Entity is formed, provided that reasonable terms to establish the Entity as soon as possible are being negotiated in good faith. For purposes of the foregoing, automatic extension as aforesaid shall be deemed to occur, unless MEI gives written notice to the contrary not later than two (2) weeks prior to the Preliminary Target Date or Extended Date (as applicable). For purposes of the foregoing, the fact that any party to the negotiations takes a position with respect to one or more issues during the course of the negotiations or fails to reach an agreement with respect to one or more issues during the course of negotiations shall not constitute failure to negotiate in good faith on reasonable terms. If MEI gives Licensee notice that it is terminating this Agreement, MEI agrees that a similar notice will be provided to all CSS Licensees within a reasonable period of time before or after MEI provides such notice to Licensee.

6.2 Effect of Termination.

- (a) Material Breach or Failure to Manufacture or Distribute CSS Compliant Products. If MEI terminates this Agreement pursuant to Section 6.1(a) or 6.1(b), all licenses granted by MEI to Licensee shall terminate. If Licensee terminates this Agreement pursuant to Section 6.1(a), the covenant not to sue granted by Licensee under Section 5.1(a) shall terminate, provided, however, Licensee agrees that MEI and the CSS Licensees, and their majority owned subsidiaries for a period of ninety (90) days after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of Licensee's termination notice. If MEI terminates this Agreement pursuant to Section 6.1(b), the covenant not to sue granted by Licensee under Section 5.1 shall terminate, provided, however, that MEI and the CSS Licensees, and their majority owned subsidiaries for a period of one (1) year after termination, shall have the right to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice. Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.
- (b) Upon Establishment of Entity. If this Agreement is terminated pursuant to Section 6.1(c): (i) all licenses granted by MEI to Licensee shall terminate, provided, however, that Licensee, for a period of ninety (90) days after termination, shall have the right, subject to the conditions contained in Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice; and (ii) the covenant not to sue granted by Licensee under Section 5.1 (a) shall terminate, provided, however, that MEI and the CSS Licensees, and their majority owned subsidiaries, for a period of ninety (90) days after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all

CSS Compliant Products that have been produced or are in production as of the effective date of termination. Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.

- (c) Upon Failure to Establish the Entity. If this Agreement is terminated pursuant to Section 6.1(d): (i) all licenses granted by MEI to Licensee shall terminate, provided, however, that Licensee, for a period of eighteen (18) months after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice; and (ii) the covenant not to sue granted by Licensee under Section 5.1(a) shall terminate, provided, however, that MEI and the CSS Licensees, and their majority owned subsidiaries, for a period of eighteen (18) months after termination, shall have the right, subject to the conditions of Section 2.1(d), to distribute all CSS Compliant Products that have been produced or are in production as of the date of the date of termination. MEI agrees that, after such notices have been provided to CSS Licensees, it will not itself engage in any act that would have been permitted pursuant to this Agreement but would be prohibited to a Licensee whose license has been terminated pursuant to Section 6.1(d). Notwithstanding any of the foregoing, the covenant not to sue granted in Sections 5.1(b) and Section 5.1(c) with respect to Disc IP shall not terminate in any event.

- 6.3 Return of Materials. Within thirty (30) days after termination of this Agreement, Licensee shall either: (i) return all Proprietary Information to MEI; or (ii) destroy all Proprietary Information in its possession and certify such destruction in writing to MEI, unless: (a) Licensee has then executed a license agreement for CSS with the Entity; and (b) Licensee sends written notice to MEI certifying that Licensee has entered into such agreement.

- 6.4 Survival. The terms of Sections 5.1 (subject to Sections 6.2(a)-(c)), 5.2, 5.3, 5.4 and 6.2 and Articles 7, 8, 9 and 10 shall survive the termination of this Agreement.

7. **OWNERSHIP**. All Proprietary Information and media containing Proprietary Information as provided by MEI to Licensee shall remain the property of MEI or its licensors. Except as provided in Article 2, this Agreement does not give Licensee any license or other right to the Proprietary Information.

8. **DISCLAIMER AND LIMITATION OF LIABILITY.**

- 8.1 Disclaimer. ALL PROPRIETARY INFORMATION IS PROVIDED "AS IS." MEI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY

JURISDICTION THAT MIGHT ARISE FROM THE PROPRIETARY INFORMATION OR LICENSEE'S IMPLEMENTATION OR ATTEMPTED IMPLEMENTATION OF SUCH INFORMATION OR CSS. MEI FURTHER DISCLAIMS ANY WARRANTY THAT CSS AND/OR THE CONTENTS OF THE PROPRIETARY INFORMATION, OR ANY PRODUCT IMPLEMENTING CSS OR SUCH PROPRIETARY INFORMATION, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

- 8.2 Limitation of Liability. SUBJECT TO SECTION 10.8, MEI OR TOSHIBA, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, OR EMPLOYEES (COLLECTIVELY, THE "AFFECTED PARTIES") SHALL NOT BE LIABLE TO LICENSEE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON MAKING, USING, SELLING OR IMPORTING ANY PRODUCTS OF LICENSEE THAT IMPLEMENT PROPRIETARY INFORMATION OR CSS, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. TO THE EXTENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST MEI NOTWITHSTANDING THE ABOVE LIMITATION, MEI'S TOTAL LIABILITY TO LICENSEE IN CONNECTION WITH THIS AGREEMENT OR CSS SHALL IN NO EVENT EXCEED THE AMOUNTS OF MONEY RECEIVED BY MEI FROM LICENSEE UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY SHALL NOT BE CONSTRUED TO LIMIT OR RELIEVE MEI OR TOSHIBA, RESPECTIVELY, FOR ANY BREACH OF ITS OBLIGATIONS IN ITS CAPACITY AS A CSS LICENSEE.

9. **REMEDIES.**

- 9.1 Indemnification. Licensee shall indemnify and hold, in their roles as developers and licensors of CSS, MEI, Toshiba and their respective majority owned subsidiaries, each of their respective officers, directors and employees, harmless from and against any and all any claims, actions, suits, proceedings or litigation and any losses, deficiencies, damages, liabilities, costs and expenses including without limitation, reasonable attorneys' fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation ("Claims") which result from: (i) any breach of any covenant, agreement, representation and warranties herein by Licensee, its employees, former employees who had access to Confidential Information or Highly Confidential Information pursuant to this Agreement, provided that Licensee's indemnity with respect to acts of former employees shall be limited to circumstances in which Licensee has failed to comply with its obligations as to former employees pursuant to Section 5.2(b)(ii) hereof; (ii) Licensee's manufacture, sale or use of any DVD Products, provided, that such indemnity shall not extend to: (a) any Claim that the CSS Specifications infringe the intellectual property rights of any third parties, or (b) any Claim or any portions

thereof that is independently attributable to the terms of the CSS Specifications themselves; and/or (iii) Licensee's activities under Section 5.3.

- 9.2 Equitable Relief. Licensee and MEI recognize and agree that due to the unique nature of certain provisions hereof and the lasting effect of and harm from a breach of such provisions, including making available the means for widespread unauthorized copying of copyrighted content intended to be protected using CSS, in the event that Licensee breaches its obligations under Section 2.1(b), 2.3, 2.5, 4.2, 5, or 10 hereof, money damages alone will not adequately compensate an injured party, including an injured Eligible Licensee pursuant to Section 9.4, and that injury to such party will be irreparable. Licensee and MEI therefore agree that, in addition to all other remedies available to the injured party at law, in equity, by agreement or otherwise, the injured party, including an Eligible Licensee pursuant to Section 9.4, upon showing to the relevant court's satisfaction that applicable factors other than the fact that harm will be irreparable and that monetary damages are not sufficient to remedy the injury have been fulfilled, shall be entitled to specific performance or other temporary, preliminary, or permanent injunctive or equitable relief including corrective actions appropriate to the circumstances for the enforcement of any such obligation (whether or not there have been commercial sales of products subject to the requested relief).
- 9.3 Specific Remedies. Licensee acknowledges that due to the critical importance of maintaining the integrity of CSS and the inability to calculate the damage to CSS users in the event of any material breach of Section 5.2, MEI, in addition to any other remedies in equity, but in lieu of any and all other claims for monetary damages, may recover liquidated damages for each material breach from Licensee in the amount of one million U.S. dollars (\$1,000,000), provided that the parties agree that Licensee may request and the court may grant such request that this amount be reduced to take account of the fact that Licensee brought the breach to MEI's attention in a timely and reasonable manner. For purposes of this Section 9.3, a series of substantially related events shall constitute a single material breach. For purposes of this Section 9.3, the following is a non-exclusive list of circumstances in which there is no material breach of Section 5.2: (1) if no Confidential Information or Highly Confidential Information was released to a third party not permitted hereunder to have such information or could reasonably have been expected to have been released to such third party as a result of the breach; (2) if Licensee maintains an internal program to assure compliance with Section 5.2 (including a program to assure maintenance of confidentiality of information for purposes in addition to compliance with this Agreement), the breach was inadvertent or otherwise unintentional, and the breach did not have a material adverse effect on the integrity or security of CSS; or (3) if Licensee brought the breach to MEI's attention in a timely manner as required by this Agreement and such breach did not have a material adverse effect on the integrity or security of CSS.
- 9.4 Third Party Beneficiary Rights. The parties hereto acknowledge and the compliance of Licensee, other CSS Licensees, and Associate Licensees with the terms of the licenses granted by this Agreement or the Associate License, as applicable, is essential

to maintain the integrity and security of the Contents Scramble System in order to protect prerecorded motion pictures contained on DVD Discs. As part of the consideration of the licenses granted herein, Licensee, for itself, hereby confers a third-party beneficiary right upon certain CSS Licensees ("Eligible Licensees") that fall into one of two classes: (i) Content Providers ("Eligible Content Providers") or (ii) manufacturers of CSS Compliant Products other than DVD Discs ("Eligible Implementers"), in order to enforce certain of Licensee's obligations, subject to the following conditions:

- (a) Either an Eligible Content Provider who has commercially released one or more prerecorded motion pictures on DVD Disc or an Eligible Implementer who has commercially released one or more CSS Compliant Products other than DVD Discs shall be entitled to initiate or institute a claim or action ("Beneficiary Claim") to enforce only those obligations of Licensee specified as follows (collectively, the "Eligible Obligations"): (i) for any Beneficiary Claim initiated by Eligible Content Providers, Licensee's obligations under Section 2.1 [Nonexclusive License], 2.3 [No Sublicense or Implied Licenses], 4.2 [Compliance with Specifications], 5.1 [Access to Necessary Patents], 5.2 [Confidentiality], 5.3 [Reverse Engineering], 9.2 [Equitable Relief] and Section 10 [Miscellaneous]; and (ii) for any Beneficiary Claim initiated by Eligible Implementers, Licensee's obligations under Section 4.2 [Compliance with Specifications] solely as such obligations pertain to Section 5.4 [Non-alteration of the Secured Disc Key Set] and Section 6.3 [Motion Picture Scrambling] of the CSS Procedural Specifications. Each Eligible Licensee who has not initiated the Beneficiary Claim but falls into the same class of Eligible Licensee as the initiating Eligible Licensee pursuant to this Section 9.4, shall be eligible to join such Beneficiary Claim. The remedies for any Beneficiary Claim shall be limited to equitable relief provided under Section 9.2, subject to Section 9.5.
- (b) Prior to initiating or instituting any Beneficiary Claim against Licensee ("Defendant Licensee"), an Eligible Licensee ("Plaintiff Licensee") shall provide MEI notice and consultation reasonable under the circumstances regarding a proposed Beneficiary Claim; provided that such consultation with MEI shall not affect an Eligible Licensee's complete discretion in initiating such a Beneficiary Claim. Such Eligible Licensee shall further provide MEI with notice of actual filing of a Beneficiary Claim and upon MEI's request, any copies of material documents to be filed in Plaintiff Licensee's initiation or pursuit of such Beneficiary Claim. MEI shall cooperate reasonably with such Eligible Licensee in providing appropriate and necessary information in connection with the Beneficiary Claim to the extent that such cooperation is consistent with the preservation of the integrity and security of CSS. Documents provided to MEI under this Section 9.4(b) shall not include any documents filed or to be filed under seal in connection with such Beneficiary Claim.

- (c) MEI shall provide all Eligible Content Providers or Eligible Implementers, as the case may be, with prompt notice of Plaintiff Licensee's Beneficiary Claim against Defendant Licensee (a "Claim Notice") in accordance with Section 10.6. Within sixty (60) days of the date of mailing of a Claim Notice, all such Eligible Licensees shall elect whether to join in such Beneficiary Claim, and the failure of any such Eligible Licensee to provide written notice to MEI of such election and to join in such Beneficiary Claim within such sixty (60) day period shall be deemed a waiver of such Eligible Licensee's third party beneficiary right under this Section 9.4 with respect to all Beneficiary Claims against such Defendant Licensee arising out of the alleged breach by such Defendant Licensee raised in such Beneficiary Claims. Plaintiff Licensee shall support, and Defendant Licensee shall not oppose, any motion to intervene by such Eligible Licensees or MEI electing to join such Beneficiary Claim within such sixty (60) day period. Neither an Eligible Licensee's failure to notify or consult with MEI or provide copies of documents to MEI as required by Section 9.4(b), nor MEI's failure to give notice under this Section 9.4(c) shall be a defense against any Beneficiary Claim or grounds for a request to delay the granting of any preliminary relief requested.
- (d) Eligible Licensees shall have no right to enter into any settlement that:
- (i) amends any material term of this Agreement; (ii) has a material adverse effect on the integrity and/or security of CSS; or (iii) impacts any of MEI's rights in and to CSS or any intellectual property right embodied therein, unless MEI shall have provided prior written consent thereto.
- (e) NOTWITHSTANDING SECTION 10.4(b), LICENSEE AGREES THAT ALL BENEFICIARY CLAIMS INSTITUTED UNDER THIS SECTION 9.4 SHALL BE GOVERNED BY AND CONSTRUCTED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES, AND SHALL BE CONDUCTED IN FEDERAL AND STATE COURTS LOCATED IN ANY COUNTY IN THE STATE OF CALIFORNIA AND HEREBY IRREVOCABLY CONSENTS TO (i) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE STATE OF CALIFORNIA; AND (ii) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER ARISING OUT OF THIS SECTION 9.4 BY PERSONAL DELIVERY OR BY MAILING OF PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESSES AS SPECIFIED IN THIS AGREEMENT OR TO THE AGENT REQUIRED BY SECTION 10.4(c). LICENSEE WAIVES ANY OBJECTION TO THE JURISDICTION, PROCESS, AND VENUE OF ANY SUCH COURT, AND TO THE EFFECTIVENESS, EXECUTION, AND ENFORCEMENT OF ANY ORDER OR JUDGMENT OF SUCH COURT PERTAINING TO THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE PLACE WHERE ENFORCEMENT OR EXECUTION OF

ANY SUCH ORDER OR JUDGMENT MAY BE SOUGHT AND THE LAW OF ANY PLACE WHOSE LAW MIGHT BE CLAIMED TO BE APPLICABLE REGARDING THE EFFECTIVENESS, ENFORCEMENT, OR EXECUTION OF SUCH ORDER OR JUDGMENT, INCLUDING PLACES OUTSIDE OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES.

- 9.5 Nothing contained in Section 9.2 or Section 9.4 is intended to limit remedies or relief available pursuant to statutory or other claims that a CSS Licensee may have under separate legal authority.

10. **MISCELLANEOUS.**

- 10.1 Entire Agreement. This Agreement, the exhibits hereto and the CSS Specifications constitute the entire Agreement between the parties hereto and supersede all oral or written agreements, either entered prior to or contemporaneously with this Agreement. Subject to Section 10.7, this Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both parties.
- 10.2 Assignment. The licenses granted hereunder are personal to Licensee, and Licensee's rights under this Agreement shall not be assigned or otherwise transferred. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties. MEI may assign or transfer this Agreement to another party that agrees to assume MEI's obligations hereunder, and will provide Licensee with written notice thereof. Either party may assign or transfer any of its Disc IP, Absolutely Necessary Claims, or Relatively Necessary Claims provided that the successor-in-interest agrees to be bound by such party's obligations with respect to the Disc IP, Absolutely Necessary Claims, and Relatively Necessary Claims under the terms of this Agreement.
- 10.3 Presumptions. In construing the terms of this Agreement, no presumption shall operate in either party's favor as a result of its counsel's role in drafting the terms or provisions hereof.
- 10.4 Governing Law; Jurisdiction. (a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES. (b) IN CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO ARISING OUT OF OR RELATING TO THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY CONSENTS TO: (i) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF SANTA CLARA, CALIFORNIA; AND (ii) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER RELATING TO THIS AGREEMENT BY PERSONAL DELIVERY OR BY MAILING OF PROCESS BY REGISTERED OR

CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESSES SPECIFIED IN THIS AGREEMENT. OR TO THE AGENT TO BE APPOINTED PURSUANT TO (c), BELOW. (c) LICENSEE SHALL APPOINT AN AGENT IN THE STATE OF CALIFORNIA FOR ACCEPTANCE OF SERVICE OF PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY MEI OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE; (d) LICENSEE WAIVES ANY OBJECTION TO THE JURISDICTION, PROCESS, AND VENUE OF ANY SUCH COURT, AND TO THE EFFECTIVENESS, EXECUTION, AND ENFORCEMENT OF ANY ORDER OR JUDGMENT OF SUCH COURT PERTAINING TO THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE PLACE WHERE ENFORCEMENT OR EXECUTION OF ANY SUCH ORDER OR JUDGMENT MAY BE SOUGHT AND THE LAW OF ANY PLACE WHOSE LAW MIGHT BE CLAIMED TO BE APPLICABLE REGARDING THE EFFECTIVENESS, ENFORCEMENT, OR EXECUTION OF SUCH ORDER OR JUDGMENT, INCLUDING PLACES OUTSIDE OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES.

- 10.5 Severability; Waiver. Subject to Section 10.7, should any clause, sentence, or paragraph of this Agreement judicially be declared to be invalid, unenforceable, or void, such decision shall not have the effect of invalidating or voiding the remainder of this Agreement. The parties agree that the part or parts of this Agreement so held to be invalid, unenforceable, or void shall be reformed without further action by the parties hereto and only to the extent necessary to make such part or parts valid and enforceable. Subject to Section 10.7, a waiver by either of the parties hereto of any of the covenants to be performed by the other party or any breach thereof shall not be effective unless made in writing and signed by the waiving party and shall not be construed to be a waiver of any succeeding breach thereof or of any covenant herein contained.
- 10.6 Notice. All notices to be provided pursuant to this Agreement shall be given in writing and shall be effective when either served by personal delivery or upon receipt via certified mail, return receipt requested, postage prepaid, overnight courier service or sent by facsimile transmission with hard copy confirmation sent by certified mail, in each case to the party at the addresses listed below:

If to MEI:

Matsushita Electric Industrial Co., Ltd.

1006 Kadoma

Osaka 571, Japan

Attn: General Manager, International Contracts Department

Fax: 011-81-6-906-3760

If to Licensee:

Attn: _____
Fax: _____

- 10.7 Amendment. No agreement pertaining to CSS similar to this Agreement or to the Associate License that is Exhibit D hereto between MEI and any CSS Licensee may be entered into on terms other than those contained in this Agreement or the Associate License, as applicable, to the extent that any modified terms would have a material adverse effect on the integrity or security of CSS or the protections provided to Eligible Licensees pursuant to Section 9.4 hereof (including any of the Sections referenced therein), and no agreement between MEI and any CSS Licensee having terms contained herein may be modified or its terms waived if such modification or waiver would have a material adverse effect on the integrity or security of CSS or the protections provided to Eligible Licensees pursuant to Section 9.4 hereof (including any of the Sections referenced therein).
- 10.8 MEI Obligations. MEI agrees that as the interim licensor, it shall have the following affirmative obligations, breach of which shall be subject to the remedies provided below.
- (a) Prior to the transfer of this Agreement to the Entity, and consistent with its roles as developer of CSS, interim licensor of CSS, and promoter of adoption of CSS, MEI agrees that it will make good faith efforts to maintain the confidentiality of CSS, Confidential Information and Highly Confidential Information. MEI shall not be liable for breaches of this Section that are not material. As non-exclusive examples of situations in which a breach is not material under this section, the situations described in Section 9.3 (1), (2), and (3) shall be applicable to MEI in any determination of whether a breach is material. In the event that MEI materially breaches its confidentiality obligation set forth in this Section, MEI's total liability to all CSS Licensees for such breach shall be limited to one million dollars (\$1,000,000) for each such material breach. For purposes of this Section, a series of related events shall constitute a single material breach.
 - (b) MEI and Licensee acknowledge that MEI's affirmative obligations under this Agreement (other than as provided in subsection (a) above), consist of the following:
 - (i) having filed patent applications as stated in Recital A;
 - (ii) delivery of the CSS Specifications pursuant to Section 4.1;
 - (iii) providing written notice and extending the date of the Entity's formation pursuant to Section 6.1(d);

- (iv) cooperating reasonably in providing appropriate and necessary information in connection with a Beneficiary Claim filed by Eligible Licensees pursuant to Section 9.4;
- (v) providing prompt notice to all Eligible Licensees of a Beneficiary Claim pursuant to Section 9.4(c);
- (vi) providing written notice to Licensee in the event MEI assigns this Agreement pursuant to Section 10.2;
- (vii) amending, as soon as reasonably possible following the finalization of this Agreement, the specifications applicable to licensees of CSS that entered licenses prior to the use of this Agreement, so that (1) such specifications contain these Procedural Specifications and related Technical Specifications, and (2) each such CSS Licensee is required to comply with such amended specifications no later than 30 days following receipt of MEI's notice containing the amended specifications;
- (viii) making all reasonable efforts, as soon as possible, to obtain all required consents, from all licensees of CSS that entered licenses prior to the use of this Agreement, to an amended and restated license conforming to this Agreement;
- (ix) not amending or waiving provisions of this Agreement pursuant to the conditions set forth in Section 10.7; and
- (x) not unreasonably withholding its consent where such consent is called for under this Agreement.

In the event that MEI fails to perform any of the affirmative obligations set forth above, Licensee's sole and exclusive remedy against MEI shall be to have MEI specifically perform such obligations.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MATSUSHITA ELECTRIC
INDUSTRIAL CO., LTD.:

Signature Jiro Kajino

Jiro Kajino
Printed Name

Director, CSS Interim
License Organization
Title

September 24, 1997
Date

WIN TECHNOLOGIES CO., LTD.:

Signature Tony Chang

Tony Chang
Printed Name

Vice President
Title

September 17th 1997
Date

EXHIBIT "A"
TO
CSS INTERIM LICENSE AGREEMENT
MEMBERSHIP CATEGORIES

- ☐ Content Provider
- ☐ Authoring Studio
- ☐ DVD Disc Replicator
- ☐ DVD Disc Formatter Manufacturer
- ☐ Descramble Module Manufacturer (hardware and/or software)
- ☐ DVD Player Manufacturer
- ☐ DVD-ROM Drive Manufacturer
- ☒ DVD Decoder Manufacturer (hardware and/or software)
- ☐ Authentication Chip Manufacturer for DVD-ROM Drive
- ☐ Authenticator Manufacturer for DVD Decoder (hardware and/or software)
- ☐ Integrated Product Manufacturer
- ☐ Reseller

EXHIBIT "B"
TO
CSS INTERIM LICENSE AGREEMENT

ACKNOWLEDGMENT BY AUTHORIZED EMPLOYEES

(xi) I, Tony Chang, a full-time employee of Win Technologies Co., Ltd.
a Taiwanese Corp. ("Licensee"), acknowledge that I have been designated by Licensee as an
"Authorized Employee" to receive on behalf of Licensee access to Confidential Information and
Highly Confidential Information of MEI for which Licensee is obligated to maintain strictly
confidential under the terms of the CSS Interim License Agreement between MEI and Licensee.
With respect to Highly Confidential Information, I acknowledge that the CSS Interim License
Agreement requires Licensee to employ procedures for safeguarding Highly Confidential Information
which procedures include, at a minimum: (i) maintaining on Licensee's premises a secure location in
which any and all Highly Confidential Information shall be stored; (ii) such secure location shall be
accessible only by Authorized Employees; (iii) Authorized Employees shall sign in and out each time
such employees visit such secure location; and (iv) when Highly Confidential Information is not in
use, such information shall be stored in a locked safe at such secure location.

I further acknowledge that I have signed a prior written agreement with Licensee pursuant to which I
have agreed to maintain the confidentiality of third party confidential information received by
Licensee. I acknowledge that I am bound by such agreement to adhere to procedures established by
Licensee to maintain the confidentiality of Confidential Information and Highly Confidential
Information during my employment and after my employment with Licensee.

By signing below, I attest that I have read and understood this acknowledgment.

Signed: _____

Name: _____

Tony Chang

Date: _____

September 17th 1997

cc: Matsushita Electric Industrial, Co., Ltd.

EXHIBIT "C"
TO
CSS INTERIM LICENSE AGREEMENT

CONTACT PERSON

Name: Mr. Tony Chang

Title: Vice President

Division:

Company: Win Technologies Co., Ltd.

Address: 5F, No. 14-16 Lane 50, Section 3 Nan Kang Road Taipei, Taiwan

Telephone Number: 886-2-7889355

Facsimile Number: 886-2-6510315

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DVD CCA 201818
HIGHLY CONFIDENTIAL
ATTORNEY EYES ONLY

CONFIDENTIAL

EXHIBIT "D" TO CSS INTERIM LICENSE AGREEMENT

ASSOCIATE LICENSE AGREEMENT

This agreement ("Agreement") by and between _____ ("Associate") and MEI or its assignee ("Licensor") as provided herein is effective upon its execution and delivery to Licensor.

Background

- A. "CSS" is a technical method for protecting the rights of copyright owners in digital materials stored on DVD media. It relies on scrambling the materials and on requiring companies that wish to make devices to descramble and view the materials to follow certain design rules in the design and distribution of their products.
- B. In order to preserve the integrity of the CSS system, certain components which perform critical functions such as descrambling and authentication may only be distributed to parties who agree to use and distribute them as required by the current CSS Assembly Specification (defined below) and this agreement.

Agreement

In consideration of the above and of being authorized to receive certain components related to CSS, Associate agrees and promises as follows:

1. Definitions.
 - a. "_____" are identified on Attachment A to this Agreement and are subject to the requirements of this Agreement.
 - b. "End User Products" are those products designed for ordinary sale to use by consumers for home use and are identified on Attachment A to this Agreement.
 - c. "CSS Assembly Specification" means the mandatory specification governing the use of _____ published by Licensor and amended from time to time.
2. Handling Controlled Parts. Associate shall not rework, modify, or reverse engineer any _____, except for steps taken to incorporate _____ into End User Products according to the CSS Assembly Specification.
3. Redistribution. _____ may only be distributed (i) to any person or entity when properly incorporated into End User Products as set out in Section 2, or (ii) to CSS Licensees or other Associates to be used and distributed only under the terms and restrictions of their respective licenses. Licensor will make available a list of such CSS Licensees and other Associates, and associate _____ not to distributed _____ to any other person or entity.
4. Modification of Specifications and Definitions. By written notice from Licensor, the list of _____ or End User Products may be changed by written notice given no less than _____ months in advance, such list or the CSS Assembly Specifications may be more restrictive.
5. Penalties for Violation. Failure to follow the CSS Assembly Specification, or distribution of _____ in violation of this Agreement, will subject Associate to legal liability, including injunctions, damages and termination of Associate's status. In the event of any breach, Licensor and/or other Licensees, including sellers of copyrighted content shall, to their respective sole discretion, be entitled to bring an action at law or in equity as third party beneficiaries of this agreement against Associate to enforce the terms of the Agreement.

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6. General Terms.

- Entire Agreement. This Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both parties.
- Assignment. Associate shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of Licensor. Licensor may assign or transfer this Agreement and will provide Associate with written notice thereof.
- Governing Law: Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of California, excluding that body of law relating to conflicts of law principles. Associate irrevocably consents to the exclusive jurisdiction and venue in its federal and state courts located in the county of Santa Clara, California and in the case of third party beneficiary claims, in any county in California expand to service and waiver provisions of main agreement. [Do we: need Disc Immunity from these types (are they likely to have _____)? Need confidentiality/rev-org provisions? or equitable _____ concessions?]
- Term. This license shall continue for a period of _____ unless earlier terminated by written notice of the party to the other at the address of _____ herein or as changed by written notice. termination or execution shall not _____ Associates _____ terms hereunder or enforcement thereof.

IN WITNESS WHEREOF, Associate has executed this Agreement as of the date written below.

Signed: _____

Name: _____

Title: _____

Date: _____

* Note: expand 10.7 of main license to preclude changes to this model agreement.

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ATTACHMENT A TO ASSOCIATE LICENSE AGREEMENT
CSS OEM ASSEMBLY SPECIFICATION

Fill in based on applicable portions of "procedural spec"

ATTACHMENT BY TO ASSOCIATE LICENSE AGREEMENT
CSS CONTROLLED PARTS AND END USER PRODUCTS

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